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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ EX.P. 483/2015 & Ex.Appl.(OS) 42/2017

A.K SABHARWAL

..... Decree Holder

Through: Mr. Amish Tandon with Mr. Ayush
Beotra, Advs.

versus

R.K MAGOO

..... Judgement Debtor

Through: Mr. Manav Gupta with Mr. Sahil
Garg, Mr. D. Kumar and Ms. Esha
Dutta, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

20.02.2019

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1. Pursuant to the last order, that is, order dated 30.10.2018, counsel for the decree holder has placed before me the purported award dated 25.5.2012. The award appears to bear signatures of Mr. Chan Prakash, that is, the sole Arbitrator.

2. The Registry will keep the award dated 25.5.2012 in a sealed cover for the purpose of record.

3. Insofar as the present proceedings are concerned, counsel for the judgment debtor says that in a suit filed before the Civil Judge, Ludhiana, a finding has been returned that the award, which is the subject matter of the present proceedings, that is, the award dated 25.5.2012 is not genuine.

3.1 A copy of the judgment dated 17.1.2019, passed in Civil Suit 276 dated 8.11.2007 (CIS No.34840/2013) has been placed before me.

4. Mr. Amish Tandon, who, appears for the decree holder, says that in paragraph 41 of the judgment, there is a finding returned by the learned Civil Judge that Ex-D1 (MOU dated 16.2.2004) and Ex-D2 (award dated 25.5.2012) are not genuine documents.

4.1 The relevant observations made in the judgment are extracted hereafter:

“41...The present case was initiated by the plaintiff in the year 2007 and the documents Ex-D1 and D2 were produced by the defendant in the year 2018 for the first time. After 11 years of litigation. The defendant had moved number of applications and revision petitions but defendant has never disclosed about the document Ex-D1 and D2. Plaintiff has pointed out that defendant has moved the bail application before Hon’ble Punjab and Haryana High Court that application was of 100 pages. The defendant has not mentioned about the said MOU even in that bail application. The late production of the document Ex-P1 and Ex-P2 has not been explained by the defendant despite of the contention of plaintiff that these documents are forged and fabricated documents. In such circumstances, the documents Ex-D1 and D2 cannot be said to be the genuine documents...”

(emphasis is mine)

5. Counsel for the decree holder says that the decree holder is in the process of assailing the judgment dated 17.1.2019 passed by the Civil Judge. It is also the submission of the counsel for the decree holder that the suit in which the aforementioned judgment was passed only dealt with one immovable property, whereas, the award relates to other aspects as well.

6. Having heard the counsel for both the parties, I am of the view that this proceeding cannot continue any further for the reason that the concerned

Court, as would be evident from the extract set out hereinabove, has, *inter alia*, returned a finding against the decree holder that the award dated 25.5.2012, which is the subject matter of the present proceeding, is not a genuine document.

7. In these circumstances, the present proceeding is closed for the moment.

8. In case the decree holder is able to have the judgment reversed, in particular, the finding returned with regard to the award, he will have liberty to reopen the proceedings, *albeit*, in accordance with law.

9. Consequently, pending application shall also stand closed.

RAJIV SHAKDHER, J.

FEBRUARY 20, 2019

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