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

+ EFA(OS) 5/2020

NIRMALA MODI

..... Appellant

Through Mr. Sudhanshu Batra, Senior Advocate
with Mr. Parveen Bhati, Advocate

versus

BDR BUILDERS & DEVELOPERS PVT LTD & ANR Respondents

Through Mr. Sanjay Goswami, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **24.02.2020**

CM.APPL 6672/2020 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

EFA(OS) 5/2020 & CM.APPL 6671/2020(stay)

The present appeal has been preferred against order dated 06.02.2020 passed by a learned Single Judge of this Court, which reads as under:

“1. Pursuant to the last order, the judgment debtor(JD) is present in Court. She undertakes to appear before the Joint Registrar-V, Mehrauli on 24.02.2020 at 10.30 a.m. for execution of the sale deed in terms of order dated 18.11.2019 passed by the learned Joint Registrar. She further submits that she is aware of the consequences which will follow, in case, the said undertaking made before the Court today is, in any manner, violated.

2. Since learned counsel for the JD has expressed an apprehension that Mr.Dinesh Gupta in whose favour the JD had earlier executed a General Power of Attorney and Will dated 20.02.2017, may by relying on these documents create or may have already created third party rights in the property, it is deemed appropriate to direct the decree holder to file an indemnity bond undertaking to indemnify the JD against any claim raised by either Mr.Dinesh Gupta or any third party claiming to have acquired rights in the property through Mr.Dinesh Gupta within three days with an advance copy to the JD.

3. In view of the undertaking given by the JD, the Original

*Appeal as also the execution petition along with the pending applications are disposed of.
4. List for compliance on 11.03.2020.”*

Mr. Batra, learned Senior Counsel for the appellant submits that the appellant has also executed a Power of Attorney in favour of Mr. Dinesh Gupta, who is one of the directors of the respondent company; and after the award has been rendered, it would be open for the Power of Attorney holder to execute the Sale Deed in favour of respondent No.1 company. He submits that although the appellant has no objection to executing the Sale Deed, he is apprehensive since during pendency of the matter, the Power of Attorney holder may have entered into further transactions with some third party, which may make the appellant liable for both civil and criminal consequences if the appellant now executes a Sale Deed even in favour of respondent No.1.

In the circumstances, Mr. Batra seeks liberty to approach the learned Single Judge to seek a direction that Mr. Dinesh Gupta should make a statement in Court either confirming that he has not made any third-party transactions on the basis of the Power of Attorney and/or indemnifying the appellant against any third-party claims.

For the record, Mr. Dinesh Gupta is represented by the learned counsel for the respondents in these proceedings.

Liberty, as prayed, is granted. In the meanwhile, the order passed by the learned Single Judge shall remain in abeyance for three days.

The appeal stands disposed of in above terms.

CM.APPL 6671/2020 also stands disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 24, 2020/pst /
EFA(OS) 5/2020