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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM (M) 496/2019 & CM APPL. 14013/2019**

POONAM TALWAR

..... Petitioner

Through: Ms. Nisha Narayanan, Mr. Shariq
Iqbal & Ms. Nusraft, Advocates (M-
9810649995)

versus

M/S BENNETT & ANR.

..... Respondents

Through: Mr. Arwan Sanyal, Advocate (M-
8800310506)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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31.01.2020

1. The present petition has been preferred challenging the impugned order dated 28th February, 2019 which reads as under:

“Earlier objections were filed by Smt. Poonam Talwar, wife of JD.

Objections perused.

It is not disputed by the Objector that the JD is 50% owner of flat No. 6327, Sector C-6 &7, Vasant Kunj, New Delhi.

Issue warrants of attachment in respect of 50% portion of the forementioned property on filing of PR AR of DH to appear before Ld. ACJ on 06.03.2019.

Re-notify on 29.03.2019.”

2. A suit was filed by Respondent No.1 - M/s Bennet Coleman & Co. Ltd. (*hereinafter ‘Company’*) against Mr. Anil Talwar – Respondent No.2 (*hereinafter ‘Judgment Debtor’*) in which a decree was passed by this Court on 20th November, 2015 for a sum of Rs.23,60,957/- along with the interest. The operative portion of the decree reads as under:

“9. In view of the categorical and unequivocal admission made by the defendant in his reply to the application and

having regard to the submission of the learned counsel for the defendant as recorded above, it is deemed appropriate to pass a judgment on admission and decree the suit for a sum of Rs.23,60,957/- in favour of the plaintiff/company. However, the interest component is scaled down from 15% per annum, on a quarterly basis as claimed by the plaintiff, to 8% per annum payable from the dates when the principal amounts became due and payable, till realisation. It is however made clear that if the aforesaid amount is not paid by the defendant to the plaintiff/company with interest within a period of three months from today, then the interest payable shall stand, enhanced from 8% p.a. to 12% p.a. ”

3. The Company sought execution of the decree. One of the assets of the Judgment Debtor is a flat in Vasant Kunj i.e. Flat No. 6327, Sector 6&7, Vasant Kunj, New Delhi of which the Judgment Debtor is 50% owner and the remaining 50% is owned by his wife i.e. Mrs. Poonam Talwar – the Petitioner herein.
4. The Judgment Debtor and the Petitioner are stated to be having matrimonial discord and the Judgment Debtor does not reside with the Petitioner as per the submissions made in Court.
5. Ld. counsel submits that the Petitioner resides in the property in question with two children and the Judgment Debtor does not reside in the premises. It is submitted that the warrants of attachment issued in respect of 50% portion of the property would be prejudicial to her inasmuch as the objections which she has filed to the execution of the decree in respect of the Vasant Kunj property are yet to be decided.
6. Ld. counsel for the Company submits that the Judgment Debtor being 50% owner of the property, the attachment order is justified.
7. The Court has perused the pleadings and orders on record. Vide the

impugned order, attachment has been directed of 50% of the property. The Executing Court needs to first decide the objections filed by the Petitioner herein who would be clearly affected inasmuch as the 50% share in the Vasant Kunj property of the Petitioner and Judgment Debtor each, is undivided. The property is one integrated flat. Moreover, the fact that the Petitioner and the children are residing in the property also needs to be considered by the Executing Court.

8. Under these circumstances, it is directed that the Petitioner shall maintain *status quo* as to title and possession of the Vasant Kunj property. She shall not handover possession of this property or create any third-party interest in this property until her objections are decided by the Executing Court. The objections filed by the Petitioner shall now be heard by the Executing Court and be decided on merits.

9. Ld. counsel for the Company submits that the Id. Division Bench's judgment of this Court RFA(OS) 93/2018 clarifies that the decree cannot be challenged at the behest of the Petitioner and the same very objections which are now pending in the Executing Court were decided in the said appeal.

10. While deciding the objections filed by the Petitioner, the Executing Court shall consider the judgment dated 29th January, 2019 passed by the Id. Division Bench in RFA(OS) 93/2018. This Court has not given any opinion on the merits of the stands of the respective parties.

11. With these observations, the petitions and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

JANUARY 31, 2020

Rahul