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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1246/2019 and CM APPLs. 38067/2019, 49145/2019**
MOHD RAHIS Petitioner

Through: None.

versus

SUNDER LAL ARORA Respondent
Through: Mohmmad Ikram, Advocate (M:
9810482807).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

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15.01.2020

1. In this petition, vide order dated 26th August, 2019, the attachment order passed by the Executing Court was stayed, subject to the Petitioner depositing a sum of Rs. 10,00,000/- with the Registrar General of this Court within a period of six weeks.
2. On 15th November, 2019, the Petitioner tendered a sum of Rs. 2,00,000/-, which remains deposited with the Registrar General of this Court. In fact, on the said date, the Petitioner had shown a cheque of Rs. 9,00,000/- which he was to receive from *M/s DLF Hardware & Paint House* to show that he would shortly be depositing the money due. The order dated 15th November, 2019 reads as under: -

“1. The grievance of the Petitioner is that vide order dated 26th August, 2019 six-weeks were granted by this Court for deposit of Rs. 10 lakhs. Prior to the expiry of the said period, auction of the Petitioner's property has been directed by the ld. Trial Court.

2. It is submitted that though the Petitioner could not pay the amount of Rs.10 lakhs, in terms of this Court's order, in order to show its bona fides, the Petitioner has brought a demand draft for a sum of rupees two lakhs today. The details of the demand draft are set out below:

Demand Draft No.: 504944

*Drawn on: ICICI Bank, Hargobind Enclave
Branch, Delhi*

Amount: Rs.2, 00, 000/-

3. The demand draft is in the name of the Registrar, Delhi High Court. It is directed that the same be credited to the account of the Registrar General of the Delhi High Court. Insofar as the remaining amount of Rs.8 lakhs is concerned, ld. counsel for the Petitioner shows a cheque of Rs.9 lakhs, which the Petitioner is to receive from one Mis DLF Hardware & Paint House.

4. Irrespective of whether the Petitioner is to receive amount from any third party, the Petitioner ought to have deposited the sum of Rs. 10 lakhs by the first week of October, which was not done. However, owing to the court holidays and the festival season etc., this Court is inclined to extend the time for the deposit of the remaining Rs.8 lakhs till 20th December, 2019.

5. In the meantime, the auction of the suit property directed vide order dated 13th September 2019, shall remain stayed till the next date. If the deposit of Rs. 8 lakhs is not made, the interim order would be liable to be vacated.

6. Ld. counsel for the Petitioner shall ensure that the ld. counsel appearing for the Respondent at the ld. Trial Court is served with the petition and the present order.

7. List on the date already fixed, i.e., 14th January, 2020.

8. Dasti under signatures of the Court Master.”

3. Thereafter, the Petitioner had appeared before this Court yesterday and was directed to make arrangements for the payment. He was also directed to be present in Court today, however, none appears for the Petitioner.

4. Vide the impugned order dated 30th July, 2019, property No. H-62, measuring 115 sq. yards, Khasra No.361/1 etc. & 362/1 etc., situated in the area of village Mustafabad, Gali No.22, Mustafabad Extn., Illaqa Shahdara, Delhi-110094 (*hereinafter, "attached property"*) was directed to be attached. Thereafter, on 13th September 2019, the auction proceedings have also been initiated.

5. On 26th August, 2019, this Court had, on an undertaking given by the Petitioner, stayed the attachment, subject to the deposit of Rs.10,00,000/-. However, it appears that the Petitioner has taken advantage of the stay order and failed to deposit the above-stated amount. Accordingly, auction of the attached property shall proceed further. The sum of Rs. 2,00,000/-, lying deposited with the Registrar General, shall be released to the Respondent, along with the interest accrued thereon. The Executing Court shall now proceed with the matter in accordance with law.

6. The petition is dismissed with costs of Rs. 50,000/-. The Respondent is permitted to recover the costs in the proceedings before the Executing Court. All pending applications are disposed of.

PRATHIBA M. SINGH, J.

JANUARY 15, 2020
MR