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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (OS) No. 2400/2013

YOGENDRA SEN MANCHANA

.....Plaintiff

Through : Mr. Jatinder Kumar Sethi with Mr.
Tanmay Mehta, Advs.

versus

SMT. PUSHPA TALWAR.

...Defendants

Through : Mr. Sanjay Chhabra with Ms. Swati
Tiwari, Advs. for D-2(a)&2(b).
Mr. Vrinda Kapoor, Adv. for D-1(b)
and 1 (c).

Ms. Shweta Bari with Mr. J.M. Bari,
Advs. for D3(a), D4(a), D4(b), D4(c),
D5((a), D5(b), D6(a), D6(b), D7(a) to
7(c)(i), 7(c)(ii) & 7(c)(iii).

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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29.05.2020

[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A.No.4081/2020 [Seeking exemption from filing a certified copy of the judgment dated 26.02.2020, payment of court fee and submissions of sworn and attested affidavits from an Oath Commissioner]

1. Allowed, subject to the plaintiff curing the deficiencies referred to in the captioned application within five days of the lockdown being lifted.

1.1 These deficiencies will be cured despite the fact that the main application is being taken up for hearing and final disposal as the record requires to be put in order.

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Signature Not Verified

digitally signed by VIPIN
KUMAR RAY
signing date 30.05.2020
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I.A. No. 4080/2020 [Under Order XX Rule 11]

2. I must state, at the very outset, that learned counsel for the parties submit that they would have no objection if this application is heard by this Bench as the application only seeks extension of the timeline for making payments to the defendants fixed by my predecessor *vide* judgment dated 26.02.2020.

2.1 In other words, both sides agree that no review of any substantive direction is sought from this Bench.

3. Accordingly, issue notice to the defendants/non-applicants.

3.1 Mr. Sanjay Chhabra accepts notice for defendant Nos.2(a) & 2(b), while Mr. Vrinda Kapoor accepts notice for defendant No.1(b) and 1 (c).

3.2 Likewise, Ms. Shweta Bari accepts notice for defendant Nos. 3(a), 4(a), 4(b), 4(c), 5(a), 5(b), 6(a), 6(b), 7(a) to 7(c)(i), 7(c)(ii) & 7(c)(iii).

4. Learned counsel for the defendants say that they do not wish to file reply(ies) to the captioned application and that they would argue the matter based on the record.

5. The substantive prayers made in the application are as follows:

“(a) Modify Judgement, order and decree dated 26.2.2020 passed by this Hon’ble Court (per Hon’ble Mr. Justice R.S. Endlaw) in the present suit and thereby:

- (i) extend the time period which was set to expire on 13th April 2020 (See Paragraph 11 of Annexure P-1) to a date, 45 days after all inbound international travel restrictions from USA to India are lifted;*
- (ii) extend the time period presently set to expire on 21st April 2020 (See Paragraph 14 of Annexure P-1) to a date, 60 days after all inbound international travel restrictions from USA to India are lifted;”*

(b) Pending hearing and final disposal of the present application, stay operation of the timelines set out in paragraphs 11 and 14 of the Judgement, order and decree dated 26.2.2020 passed by this Hon'ble Court in the present suit;
(c) Pass an ad-interim ex-parte order in terms of prayer (b) hereinabove..."

6. As would be evident from the prayers extracted hereinabove, the applicant seeks extension of time for making payments to the defendants.

6.1 The reason given for the same, broadly, in the application, is that the money which was required to be deposited pursuant to the judgment of the learned Single Judge of this Court dated 26.02.2020, has to be sourced from the applicant's children.

6.2 It is stated that the same could not be done as the applicant's daughter is a resident of the United States of America [USA] and that she has not been able to visit New Delhi after imposition of the lockdown.

6.3 It is stated that the applicant's daughter had visited India on 17.02.2020 and left for the USA on 24.02.2020.

7. Mr. Jatinder Kumar Sethi, who appears for the plaintiff, says that the judgment dated 26.02.2020 was released only on 05.03.2020.

7.1 It is further submitted that the applicant has the requisite funds available, *albeit*, in the form of fixed deposits created by his daughter in her name and, in order to access the same, she is required to visit India.

8. On the other hand, counsel for the defendants say that none of the reasons given in the application were put forth before the learned Single Judge during the course of the main proceedings and, therefore, there is no reference to this aspect in the judgment dated 26.02.2020.

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9. I tend to agree with the submissions of counsel for the defendants.

10. I may also note that Mr. Sethi has adverted to the circulars issued by the Government of India and the order of the Full Bench of this Court dated 25.03.2020 whereby the efficacy of orders issued by this Court in various proceedings has been extended on account of intercession of the lockdown.

10.1 To be noted, given the fact that only monies had to be deposited by the applicant before the stipulated date, in terms of the judgement of the learned Single Judge dated 26.02.2020, the reasons given by the applicant are difficult to accept.

10.2 I tend to agree with the submissions of counsel for the defendants that since the applicant had not indicated [while the main proceedings were on that the money that had to be deposited had to be sourced from his daughter], the reason given for extension of time for making the deposit, to say the very least, appears to be an afterthought.

10.3 However, looking at the overall scenario, I had communicated to Mr. Sethi that I was, *prima facie*, inclined to grant further two weeks for making the deposit of requisite funds so that the applicant's *bona fides* could be tested. Once the deposit was made, then, subject to the objections, if any, taken by the defendants, the aspect of extension of timeline could be addressed.

10.4 Mr. Sethi, in response to this suggestion, submitted that the applicant would require 30 days and he would be willing to pay interest for this period.

11. Counsel for the defendants, however, indicated that they were not agreeable to the suggestion made by Mr. Sethi.

11.1 As a matter of fact, Mr. Chhabra who appears for defendant Nos. 2(a) & 2(b), says that the decree passed in the matter was conditional and, upon failure of the applicant to pay the money, the sum of Rs. 1,72,85, 711/- had to be forfeited.

11.2 Mr. Chhabra further submits that the subject agreements to sell would also stand rescinded.

11.3 Mr. Chhabra has, in fact, made another submission, which is, that this Court has become *functus officio*.

12. I do not wish to delve into the aforesaid objections advanced by Mr. Chhabra, at the moment, as the applicant, it appears, is not interested in depositing the money to, at least, demonstrate his *bona fides*.

12.1 Two weeks, to my mind, is a sufficient period in which the applicant can have the money deposited/wired *via* electronic transfer in furtherance of the obligations cast on him under the subject judgment and decree.

13. In view of the above, I am not inclined to entertain the captioned application. The application is, accordingly, dismissed.

RAJIV SHAKDHER, J

MAY29, 2020
pmc/KK

[Click here to check corrigendum, if any](#)

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