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NEUTRAL CITATION NO: 2022/DHC/000349



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

% ***Date of Decision: 28.01.2022***

+ **EFA(OS) 2/2022**

GAURAV DHAWANAppellant
Through Mr D P Singh, Adv

versus

TRANSASIA PRIVATE CAPITAL LIMITEDRespondent
Through Mr Rajshekhar Rao, Senior
Advocate with Mr Rajdeep Panda,
Mr Chitranshul Sinha, Ms Sanjam
Chawla, MsAkshitaUpadhyay and
MrJaskaran Singh, Advs

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

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

RAJIV SHAKDHER, J. (ORAL):

CM APPL.4965/2022

1. Allowed, subject to just exceptions.

EFA(OS) No.2/2022

CM APPL. 4964/2022[*Application filed on behalf of the appellant for stay of operation of order dated 24.05.2021*]

CM APPL.4966/2022[*Application filed on behalf of the appellant for condonation of delay*]

2. This appeal is directed against the order dated 24.05.2021, passed by the learned single judge in Ex.P. 37/2021.

2.1. The record shows that the appellant/judgment debtor had also preferred a review petition i.e., Rev. Pet. No.102/2021, in the aforementioned execution petition, which was dismissed on 09.12.2021. To be noted, the order dated 09.12.2021 is not the subject matter of the



appeal.

2.2 That being said, Mr DP Singh, who appears on behalf of the appellant/judgment debtor, says that the appellant's/judgment debtor's grievance is limited to the following aspects:

(i) Firstly, that the appellant/judgment debtor has been called upon to file an affidavit disclosing the details of his assets even before his objections *vis-a-vis* the legal tenability of the foreign decree is adjudicated.

(ii) Secondly, the directions to file an affidavit disclosing the details of the appellant/judgment debtor's assets would entail, at this stage, an invasion of the appellant/judgment debtor's privacy.

(iia) However, Mr Singh says that, if this court were to issue a direction that the affidavit disclosing the details of the assets will be filed by the appellant/judgment debtor in terms of Form 16A of Appendix-E of the Code of Civil Procedure, 1908 [in short "CPC"], the appellant/judgment debtor would have no difficulty in complying with such a direction.

(iib) Mr Singh says that the difficulty arises in the insistence by the learned single judge in having the details of assets being provided in terms of the judgment rendered in ***Bhandari Engineers & Builders Pvt. Ltd. v. Maharia Raj Joint Venture & Ors.*** (2016) 227 DLT 302.

(iii) Furthermore, Mr Singh says that, for the moment, the affidavit filed by the appellant/judgment debtor could be kept in a sealed envelope by the Court, albeit after satisfying itself about the adequacy of the disclosure made having regard to the requirements of law; which could be accessed, if at all, only if the appellant/judgment debtor fails to have his objections sustained [qua the subject foreign decree].

3. Mr Rajshekhar Rao, learned senior counsel, who appears on behalf of the respondent/decreed holder, says that, since the position of law has changed, inasmuch as the judgment in ***Bhandari Engineers & Builders***

Pvt. Ltd. (2016) 227 DLT 302 has been over turned in *Delhi Ch* and *Pharmaceutical Works Pvt. Ltd. &Anr. vs. Hingiri Realtors Pvt.*



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Ltd. &Anr. 2021 SCC OnLine Del 3603, the respondent/decreed holder would be satisfied if the appellant/judgment debtor were to disclose his assets as per Form 16A of Appendix-E of the CPC.

3.1 Besides this, Mr Rao also submits that, for the moment, the respondent/decreed holder can have no objection, if the details of assets are furnished by the appellant/judgment debtor in a sealed envelope to the Court.

4. Having heard the counsel for the parties, the appeal is disposed of with the following directions:

(i) The appellant/judgment debtor will furnish the details of his assets as required in the prescribed form i.e., Form 16A of Appendix-E of the CPC.

(ii) The details of the assets will be furnished in a sealed envelope. The details given in the form will be examined by the learned single judge. In case the disclosure is made, as required in terms of Form 16A of Appendix-E of the CPC, the learned single judge will direct the form to be placed in a sealed envelope, which shall be opened only if the appellant/judgment debtor fails to sustain the objections preferred by him qua execution of subject foreign decree.

(iii) The details shall be furnished by the appellant/judgment debtor, as indicated hereinabove, before the next date of hearing before the learned single judge i.e., on 03.02.2022.

5. At this stage, Mr Singh says that, the appellant/judgment debtor has quarantined himself as he is afflicted with coronavirus.

5.1 In case an accommodation is required, a request in that behalf will be made by the appellant/judgment debtor on the next date of hearing fixed before the learned single judge i.e., 03.02.2022. The learned single

judge will consider the request, and grant an extension of time if deemed fit.

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6. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JANUARY 28, 2022/pmc

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

