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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1105/2022 & CM APPL.44966/2022, CM
APPL.44967/2022

RAJESH KHANNA & ANR Petitioners
Through: Mr. Rajat Aneja, Adv.

versus

RAGHUBIR SINGH ARORA AND ANR Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)
17.10.2022

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1. The order dated 7th October 2022, under challenge in the present proceedings under Article 227 of the Constitution of India, reads as under:

“22 Ex. 158/2022

RAGHUBJR SINGH ARORA AND ANR vs. RAJESH
KHANNA AND ANR

07.10.2022

Present: Mr. S.S.Jain Counsel for DHs with son of DH.

Mr. Shiv Kurnar. Counsel for JD no.1 with JD No.1
Rajesh Khanna. Fresh vakalatnama filed on behalf of JD no. 1.

An application filed by JD seeking direction to me
details of properties/goods attached by Bailiff in pursuant to
directions of Court. Copy supplied to DH.

JD No.1 Rajesh Khanna states that he was running

business at K-74, Ground Floor, Chhachi Building, Krisna Nagar, Delhi. HE admits his liability to pay as per order dated 23.10.2009 passed by Hon'ble Delhi High Court. He further states that if the goods attached pursuant to order by Bailiff be given to him, he shall make payment of entire dues as per the order of Ld. Predecessor as well as order of Hon'ble Delhi High court dated 23.10.2019.

Separate statement of JD no.1 Rajesh Khanna is recorded to this effect.

JD has also not complied with the Orders of this Court and the Order dated 23.10.2019 of Hon'ble Delhi High Court.

Counsel for JD to the contrary submits that the total amount payable is yet to be determined. The plea is without force as Hon'ble Delhi High Court has categorically observed in the order as to the total amount/arrears payable by JD to the Decree Holder.

JD now pleads that if this goods attached as per list are returned to him, he shall make the entire payment of arrears and seeks time for the same.

Counsel for Decree Holder refers to the number of opportunities given to JD to make good the payment and he opposes the adjournment.

This court observes that JD has not filed his affidavits of assets, income and expenditure in view of judgments "M/s Bhandari Engineers & Builder Pvt. Ltd. v. M/s Maharia Raj Joint Venture & Ors" and M/s Delhi Chemical and Pharma Works P. Ltd. v. Himgiri Realtors P. Ltd. (DOD: 05.07.2021).

Before this court resorts to the coercive process of sending the JD to civil imprisonment, he is directed to file affidavits of assets in terms as of and as prescribed as above within 15 days with copy to other side.

To come up for compliance as above by JD on 01.11.2022 at 12:00 p.m.

(Ravinder Bedi)
Add. District"

2. Mr. Rajat Aneja, learned Counsel for the petitioner, submits that the present petition has been necessitated because, until the petitioner's goods, attached by the Bailiff, are released and the account of the petitioner is defreezed, the petitioner would not be in a position to liquidate the decree.

3. He submits that an application, for the said purpose, has been moved before the learned ADJ, as is noted towards the commencement of the impugned order, but that, without passing any order thereon, the learned ADJ has observed that before the court resorts to the coercive process of sentencing the petitioner to civil imprisonment, the petitioner was directed to file affidavit of assets.

4. Mr. Aneja submits, on instructions, that his client would be satisfied if, before taking any such decision on proceeding coercively against the petitioner, the application filed by the petitioner for release of the petitioner's goods and defreezing the petitioner's account is considered by the learned ADJ.

5. Accordingly, this petition is disposed with a direction to the learned ADJ to take up and consider, at the outset, the petitioner's application for release of the goods and defreezing of the petitioner's account.

6. This Court does not express any opinion on the merits of the said application. The limited direction has been issued to the learned

ADJ to take up and consider the petitioner's application and pass a decision thereon, before proceeding further in the matter.

C. HARI SHANKAR, J.

OCTOBER 17, 2022

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