

\$~105 (Appellate)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CM(M) 1111/2022 & CM APPL. 45092/2022, CM APPL. 45093/2022

NEELAM KOCCHAR & ANR. .... Petitioners  
Through: Mr. Vikas Aggrawal and Mr.  
Anshu, Advs.

versus

NEERA JAIN SINCE DECEASED THROUGH LRS  
..... Respondent  
Through: None

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

**J U D G M E N T ( O R A L )**  
**18.10.2022**

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1. Civil Suit 897/2008 (*Neera Jain v. Harish Kochhar*) was allowed by the learned Additional District Judge (the learned ADJ) vide judgment and decree dated 11<sup>th</sup> July 2012.

2. Neera Jain, Respondent 1 in the present petition, who is represented by her legal representatives, consequent on her demise, instituted Civil Suit 897/2008 against Harish Kochhar and M/s Ach Kay Clothing Inc., for recovery of ₹ 19,95,000/-. By the time the suit was decreed on 11<sup>th</sup> July 2012, Harish Kochhar was no more and had been substituted by his legal representatives who are the petitioners in the present petition.

3. *Vide* the judgment and decree dated 11<sup>th</sup> July 2012, the learned

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ADJ decreed the aforesaid suit for a sum of ₹ 14,04,260/- along with interest @ 14% per annum from the respective date of each of the invoices which form subject matter of the claim in the suit, along with proportionate costs.

4. The respondents, as the decree holders in the suit, filed execution petition Ex. 124949/2016 (*Neera Jain v. Neelam Kochha*), seeking execution of the aforementioned judgment and decree dated 11<sup>th</sup> July 2012.

5. The memo of parties in the said execution petition is relevant for the purposes of the controversy in issue and may, therefore, be reproduced thus:

“AMENDED MEMO OF PARTIES

1. Mrs. Neera Jain (Since deceased)  
through LRs/DH Nos. 3),
2. Sh. Abhishek Jain (since deceased)  
S/o. Late Sh. Ajay Jain  
Through LRs:
  - (a) Mrs. Priyanka Jain (wife)
  - (b) Master Arham Jain (Minor son)
3. Ms. Himani Jain  
D/o Late Sh. Ajay Kumar Jain,

All at:  
A-52, Suraj Mal Vihar,  
Delhi-110092

...Decree Holders

*Versus*

Sh. Harish Kochhar (Since deceased  
Through LR's)  
e. Smt. Neelam Kochhar  
f. Sh. Harry  
g. Ms. Pooja  
h. Ms. Geetu

All at:

1. Flat No. F-5/2, Ground Floor,  
Vasant Vihar,  
New Delhi-110057.

2. M/s. Neelkanth Overseas,  
A-1/18, Gali No.9,  
Chanakya Palace, Part-I,  
Near C-1, Janakpuri,  
New Delhi.

.. Judgment Debtors"

6. The judgment debtors in the aforementioned execution petition filed an application under Sections 50 and 52 read with Section 151 of the CPC, which was allowed by the learned ADJ *vide* order dated 30<sup>th</sup> August 2013. Aggrieved by the said order, the respondent approached this Court by way of Ex. FA 31/2013. The memo of parties in the said Ex. FA 31/2013 reads as under:

"MEMO OF PARTIES"

1. Mrs. Neera Jain (Since deceased  
through Appellant Nos.2 & 3)
2. Sh. Abhishek Jain  
S/o. Late Sh. Ajay Kumar Jain
3. Ms. Himani Jain  
D/o Late Sh. Ajay Kumar Jain,

Both at:  
A-52, Suraj Mal Vihar,

Delhi-110092

..Appellants

Versus

1. Neelarn Kochhar  
W/o. late Sh. Harish Kochhar
2. Harry  
S/o. late Sh. Harish Kochhar
3. Pooja  
D/o late Sh. Harish Kochhar
4. Geetu  
D/o late Sh. Harish Kochhar

All at:  
F-5/2, Vasant Vihar,  
New Delhi.

.... Appellants”

7. Ex. FA 31/2013 was disposed of, on 21<sup>st</sup> July 2016, by a Single coordinate Bench of this Court. The operative paragraph of the said decision reads as under:

“After hearing learned counsel for the parties at length and on perusal of impugned order and material on record, I find that when an application like the instant one is filed in view of the averments made in the application, trial court ought to have obtained a reply to the application, particularly when the balance sheet filed along with the application does not clearly disclose that *M/s Ach Kay Clothing Inc.* was running into losses. In such a situation, this Court finds that the passing of the impugned order without reply was totally unwarranted. The impugned order of 30<sup>th</sup> August, 2013 is hereby set aside with direction to the trial court to hear the application under Sections 50 & 52 r/w Section 151 CPC filed on 30<sup>th</sup> August 2013 afresh after giving an opportunity to appellants to respond to it and if need be, to take evidence on this application and to ensure that all the judgment debtors file their affidavit in support of this application. *Trial court shall ensure that the financial status of judgment debtors is duly*

*considered from the year 2006 till the date of decree or till the date of the application.”*

(Emphasis supplied)

**8.** The above judgment dated 21<sup>st</sup> July 2016 was never assailed by anyone in any manner known to law. It has, therefore, attained finality.

**9.** Despite the clear and categorical direction in the aforementioned judgment dated 21<sup>st</sup> July 2016 passed by this Court, the petitioners-judgment debtors did not place on record their financial status commencing 2006. Exception was taken, by the respondents-decree holders, to this default, before the learned ADJ on 1<sup>st</sup> April 2022. The respondents contended that the affidavit of assets which had been filed by the petitioners-judgment debtors did not disclose their financial assets starting 2006.

**10.** The petitioners sought to contend, before the learned ADJ, that they were liable only to the extent of the estate received from their father, against whom the suit had originally been filed and were not, therefore, liable to disclose their personal assets with effect from 2006.

**11.** The learned ADJ has refused to accept the said submission and, in view of the categorical direction issued by this Court in the judgment dated 21<sup>st</sup> July 2016, has reiterated the direction, to the petitioners, to disclose their financial status commencing 2006.

**12.** Aggrieved by the said order, the petitioners have approached

this Court by means of the present petition under Article 227 of the Constitution of India.

**13.** I have heard Mr. Vikas Aggrawal, learned Counsel for the petitioner.

**14.** In my considered opinion, this petition is completely frivolous and bereft of merit altogether. The judgment passed by this Court on 21<sup>st</sup> July 2016 is unmistakable in its clear direction to the judgment debtors to disclose their financial status from 2006 onwards.

**15.** The memo of parties in the execution petition filed before the learned ADJ, as well as the memo of parties in Ex. FA 31/2013, both of which have been reproduced hereinabove, reveal that the petitioners were reflected as the judgment debtors in both proceedings.

**16.** The direction issued by this Court in its order dated 21<sup>st</sup> July 2016, therefore, clearly required the petitioners-judgment debtors to disclose their financial status commencing 2006. The petitioners having not chosen to challenge the order dated 21<sup>st</sup> July 2016, cannot be heard to contend otherwise. Any such submission would be in the teeth of the directions issued by this Court which, as already noted, have attained finality.

**17.** That being so, the learned ADJ has correctly directed the petitioners to disclose their financial status commencing 2006.

**18.** To avoid any ambiguity on this score, it is clarified that the

petitioners would be required to place on record the position of their assets, liquid and otherwise, reflecting their true financial status w.e.f. 2006.

**19.** The affidavit of assets which the petitioners would place on record, has necessarily to conform to the direction issued by this Court on 21<sup>st</sup> July 2016.

**20.** There is, therefore, no warrant for any interference, by this Court, with the impugned order dated 1<sup>st</sup> July 2022. The present petition, being devoid of merit, is, therefore, dismissed *in limine*.

**OCTOBER 18, 2022**  
*dsm*

**C. HARI SHANKAR, J.**

न्यायमेव जयते