



A.No.2855 of 2022

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in
EP.DR.No.33856 of 2022

S.SOUNTHAR, J.

This application has been filed by the Decree Holder under Order XXI Rule 41 Sub-Sections 1, 2 & 3 of CPC, seeking a direction to the respondents 2 & 3 to attend this Court for oral examination along with all books of accounts and other documents pertaining to the assets/receivables of the Judgment Debtor.

2. The applicant herein filed a suit in C.S.(Comm).No.276 of 2020 against the respondents seeking recovery of money. The said suit was decreed exparte on 09.09.2021 and the decree directs the respondents/defendants to pay the applicant/plaintiff jointly and severally a sum of Rs.3,26,93,553/- along with interest 12% p.a. Thereafter, the applicant has filed this application seeking direction to the partners of the first defendant, who are the respondents 2 and 3,



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to present before the Court for oral examination regarding the assets of the respondents/defendants.

3. The third respondent herein filed a counter affidavit stating that the first respondent has become defunct and there is no revenue, assets either movable or immovable in the name of the first respondent. However, in the counter affidavit, the details of the assets available in the names of the respondents 2 & 3 are not given.

4. Under the provisions of Order XXI Rule 41 of the Code of Civil Procedure, when the judgment is passed against the Judgment Debtor, the Decree Holder is entitled to file an application seeking for oral examination of the Judgment Debtor in order to find out the availability of the assets in the name of the Judgment Debtor for satisfaction of the decree. In the case on hand, the respondents filed an affidavit stating that the first respondent has already become defunct.



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However, the details of the assets of the respondents 2 & 3 are not stated in the counter. In these circumstances, this Court is inclined to allow the application as the applicant made out a case for examination of respondents 2 & 3.

5. Accordingly, this application is allowed and the respondents 2 & 3 are directed to appear before the Master for oral examination on 10.07.2023.

26.06.2023

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