**A.No.3099 of 2022
and O.A.No.437 of 2022
in E.P.(DR).No.68909 of 2022**

S.SOUNTHAR, J.

Application No.3099 of 2022 has been filed by the applicant/decree holder seeking a direction to the Directors of the respondent namely Mr.Nandakumar Chandrasekharan Nair, Mr.Devdas Kattoor Narayanan and Mr.Narayanan Jagadish Kaitheri to either individually or jointly disclose by an affidavit the details of the assets of the respondent.

2. Original Application No.437 of 2022 has been filed seeking an injunction restraining the respondent, its men, agents or any other person representing the respondent from disposing of the fixed assets including the tangible assets, current assets and bank accounts held by the respondent pending disposal of the application seeking disclosure of assets.

3. The applicant herein obtained a money decree against the respondent in C.S.No.249 of 2014. As per the decree, the respondent was directed to pay the applicant a sum of Rs.4,46,90,132/- with interest at the rate of 12% per annum on the sum of Rs.1,89,93,163/- plus cost of Rs.7,50,000/-. Thereafter, the applicant herein filed execution petition in E.P.(DR).No.68909 of 2022 and has come up

with this application seeking direction to the respondent/judgment debtor to disclose its assets by way of an affidavit in compliance with Form No.16A as prescribed by Code of Civil Procedure, 1908.

4. The respondent/judgment debtor filed a common counter to this application wherein he has stated that the only immovable property owned by him is it's factory premises situated at Limbasi, Gujarat and the same was encumbered by the order of Gujarat High Court. It was further stated that as per the order passed by the Gujarat High Court dated 29th March, 2019 in Letter Patent Appeal No.1079 of 2018 and other connected cases, the sale proceeds of factory premises at Limbasi, Gujarat shall be used exclusively for settling statutory terminal dues and benefits of the workers as on 1st January, 2019. It was also stated that as per the Annexure - I to the settlement recorded in that order, the aforesaid sum was crystalised at Rs.23,19,84,974/-. Along with the affidavit, the respondent also enclosed its financial summary for the financial years 2020-21, 2021-22 and upto the month of July 2022 for the financial year 2022-2023.

5. After recording the same, this Court by order dated 01.09.2022 directed the respondent/judgment debtor to file an affidavit disclosing all its assets, whether movable or immovable or whether encumbered or unencumbered.

The respondent was also directed to give the current outstanding amount in respect of the encumbered properties. Further, the respondent was also directed to furnish valuation reports in respect of immovable properties.

6. In pursuance of the said direction, the respondent herein filed an affidavit dated 16th December 2022 along with typed set of papers containing the valuation reports for the immovable property at Limbasi, Gujarat and also its plants and machineries. The typed set of papers also included the Independent Auditors Report. The respondent also filed an additional affidavit dated 06th January 2023 whereas the details of the encumbered and unencumbered properties were given.

7. Thereafter, the applicant herein filed an affidavit dated 13th February, 2023 pointing out certain defects in the affidavit and additional affidavit filed by the respondent. The applicant herein in its affidavit dated 13th February, 2023 averred that as per the valuation reports filed by the respondent, the extent of the immovable property in the name of the respondent at Limbasi, Gujarat was 1,25,954 square metres. However, as per the mortgage deed executed by respondent dated 04.07.2014, the extent of the property was 1,22,919 square metres. It was also stated that there was some discrepancy in the survey numbers

of the property mentioned in those two documents. It was further stated that the respondent failed to give correct particulars as directed by this Court and thereby, committed breach of interim orders made under Order 21 Rule 41(2) of the Code of Civil Procedure.

8. In response to the affidavit filed by the applicant dated 13th February, 2023, the respondent herein filed an additional affidavits dated 07.03.2023 and 01.04.2023 whereunder, it was stated by the respondent that as per the Registered Sale Deed in its favour, the extent of the property was 1,22,919 square metres and the same is reflected in the mortgage deed. It was also stated that only the extent mentioned in the registered sale deed will prevail.

9. As far as discrepancy in the survey numbers are concerned, it was stated by the respondent that the applicant has not mentioned what was exact discrepancy in the survey numbers and in the absence of any detail regarding the exact nature of discrepancy, the same will lose significance. The respondent also in its affidavit mentioned the value of the inventories, trade receivables, cash, amount lying in bank accounts and cash in hand.

10. If all the affidavits and additional affidavits of the respondent dated

30th August 2022, 16.12.2022, 06.01.2023, 07.03.2023 and 01.04.2023 and its annexures are taken together it would reveal that the respondent has disclosed its movable and immovable assets together with details whether it is encumbered or unencumbered. Even in respect of encumbered immovable property is concerned, the outstanding due was mentioned as Rs.23,19,84,974/- (Rupees Twenty-Three Crores Nineteen Lakhs Eighty-Four Thousand Nine Hundred and Seventy-Four Only), the respondent also furnished valuation reports in respect of the immovable property land and factory machineries. Therefore, the order passed by this Court dated 01.09.2022 has been complied and necessary details are furnished by the respondent.

11. In view of the above, no further orders are necessary in this application and the applicant is at liberty to proceed with execution of the decree based on the details furnished by the respondent.

12. Accordingly, A.No.3099 of 2022 is disposed of with the above observations.

13. In view of the above order passed in A.No.3099 of 2022,

O.A.No.437 of 2022 seeking injunction restraining the respondent from disposing of the fixed assets pending disposal of the application seeking disclosure of the assets, is closed.

08.06.2023

dm

S.SOUNTHAR, J.

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