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

% *Date of Decision: 25.07.2023*

+ **W.P.(C) 9751/2023 & CM APPL. 37383/2023 & CM APPL. 37384/2023**

M/S ADYA INFRACON PRIVATE LIMITED Petitioner
Through: Ms. Purti Gupta & Ms. Henna George, Advs.

versus

PHOENIX ARC PVT. LTD & ANR. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 24.08.2020 passed by the Recovery Officer, Debts Recovery Tribunal-1 whereby, the property bearing no. 113, Park Street, Poddar Point, 8th Floor, Kolkata-700016 (hereafter '**the property**') was attached. The petitioner also impugns subsequent orders passed for proclamation of sale and sale of the said property.

2. It is the petitioner's case that orders passed in respect of the said property are illegal as the said property does not belong to the Debtor [M/s Polar Pharma (India) Limited] against whom the recovery certificate has been issued.



3. The learned counsel appearing for the petitioner states that the petitioner has also filed an application before the concerned Recovery Officer seeking recall of the order dated 24.08.2020 and other orders, however, the said application has not been heard. She submits that the Recovery Officer is not taking up the application on account of lack of clarity regarding the jurisdiction to proceed with the recovery. She states that in terms of the Notification dated 04.10.2022, the proceeding relating to Recovery Certificate no.88/2016 against M/s Polar Pharma (India) Limited was transferred from the Debts Recovery Tribunal-1 to the Debts Recovery Tribunal-II, however, the Notification dated 04.10.2022 has been stayed by the Bombay High Court by an order dated 17.11.2022 passed in WPC No.11164/2022 captioned ***Ishwarlal Shankarlal Lalwani (Jain) v. The Union of India, through the Chief Secretary.***

4. In ***M/s Ral Nutralife Pvt. Ltd. v. State Bank of India & Ors. : W.P. (C) 8290/2023*** decided on 19.07.2023 and in ***Falak Industries Pvt. Ltd. Through Authorised Agent Mr. Mohd Salim Khatri v. Punjab National Bank Ltd. & Ors.; WP(C) No. 8923/2023*** decided on 18.07.2023, this Court had examined the question whether the order of the Bombay High Court was operative in respect of S.O. 4718(E) dated 04.10.2022 whereby the jurisdiction of the Debts Recovery Tribunals was reallocated. This Court had clarified that the said order dated 17.11.2022 passed by the Bombay High Court in WP(C) No.11164/2022 did not stay the said Notification dated 04.10.2022 and there was no impediment for the Debts Recovery Tribunal to proceed



with the matter in terms of S.O. 4718(E) dated 04.10.2022.

5. In view of the above, the concerned Recovery Officer attached to the Debts Recovery Tribunal-II is directed to take up the petitioner's application and decide the same as expeditiously as possible and preferably within a period of six weeks from date.

6. The petition is disposed of in the aforesaid terms.

7. It is clarified that this Court has not expressed any opinion on the merits of the claim made by the petitioner in this petition.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

JULY 25, 2023

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