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

Date of decision: 05.12.2023

+ CM(M) 1645/2023 and CM APPL. 52121/2023

ASHOKA ESTATES PRIVATE LTD Petitioner

Through: Dr. H. Uppal and Mr. T. Prasad,
Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Mr. Varun Rajawat,
Mr. Varun Pratap Singh and Ms.
Shreya V. Mehra, Advocates for R-1
& R-3

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of Constitution of India impugns the order dated 18.09.2023 passed by the ADJ-02, Patiala House Courts, New Delhi ('Executing Court') in LAC No.1/16 along with Execution petition bearing Ex. no. 5345/16 (in terms of order dated 04.04.2018), titled as '**M/s Ashok Estate Pvt. Ltd. v. Union of India**', whereby the Petitioner's prayer for release of compensation as determined by the Reference Court in Suit No. 24/08, vide judgement dated 5/8.08.2011, has been declined.



2. Learned counsel for the Petitioner states that as per the award dated 30.06.2004 and the judgment of the Reference Court dated 5/8.08.2011, the Petitioner herein i.e., M/s. Ashoka Estates Private Ltd and L&DO i.e., Respondent No. 3 herein, are the only claimants, who are entitled to receive the compensation amount in the ratio of 80:20.

2.1. He states that however, the Executing Court has vide impugned order declined to release the compensation to the Petitioner herein by referring to its earlier orders dated 26.02.2020 and 04.04.2018.

2.2. He states that it is a matter of record that M/s Dewan Chand Builders Pvt. Ltd. had initially preferred a claim and was arrayed as an interested party; however, in the order dated 19.10.2019, the said Court has recorded the fact that M/s Dewan Chand Builder Pvt. Ltd. has since been struck off from the register of companies and therefore, cannot maintain its claim.

2.3. He states on instructions that to the Petitioner's knowledge, M/s Dewan Chand Builders Pvt. Ltd. continues to remain struck off from the register of companies and therefore, there is no claim pending on behalf of M/s Dewan Chand Builders Pvt. Ltd. before the Reference Court as on date. He states that there is no appearance on behalf of the said party and no contest.

2.4. He states that therefore, the admitted fact situation is that Petitioner herein and Respondent No.3 i.e., L&DO are the only two (2) claimants before the Executing Court and as per the award, they are entitled to receive the amounts in the ratio of 80:20.

2.5. He states that the objections, if any, were only by M/s Dewan Chand Builders Pvt. Ltd. and with no one pressing the said objections, there is no requirement of leading of evidence in the facts of this case.



2.6. He relies upon the facts recorded by the LAC in its reference, annexed at page 58 of paper book, which records that the persons found to be interested in the land were M/s. Ashoka Estates Private Ltd and Land and Development Office only.

2.7. He has also placed reliance upon the order dated 23.01.2012 reported in 187 (2012) DLT 90 (DB) to contend that the re-entry order issued by L&DO has been set aside.

3. Learned counsel for Respondent Nos. 1 and 3 has entered appearance.

3.1. He states on instructions that Respondent No. 3 is entitled to receive compensation amount and he has no objection if the compensation is released to both the Petitioner and Respondent No. 3, in accordance with law.

3.2. He states that he has no objection to the matter being remanded to the Executing Court for a fresh determination uninfluenced by the orders dated 26.02.2020 and 04.04.2018.

4. This Court has considered the submissions of the parties and perused the record.

5. In the order dated 26.02.2020 and the impugned order dated 18.09.2023, the Executing Court has deferred the orders of release of compensation by making reference to the pending claim of a third party i.e., M/S Dewan Chand Builder Pvt. Ltd.

5.1. However, the legal effect of the proceedings recorded in the order dated 19.10.2019 and more specifically the statement made by the counsel for the Director of M/S Dewan Chand Builder Pvt. Ltd. on 19.10.2019 has not been considered by the Executing Court. There has been no appearance on behalf of M/S Dewan Chand Builder Pvt. Ltd. in the execution



proceedings after 19.10.2019 to pursue the claims/objections.

5.2. It has been contended before this Court that M/S Dewan Chand Builder Pvt. Ltd continues to remain struck off in the register of companies and there has been no representation on behalf of M/S Dewan Chand Builder Pvt. Ltd before the Executing Court after 19.10.2019. In these circumstances, an appropriate order disposing of the said objections filed by M/S Dewan Chand Builder Pvt. Ltd is required to be passed by the Executing Court.

5.3. The Petitioner is directed to file an affidavit within one (1) week before the Executing Court confirming that as per the information available in public domain the M/S Dewan Chand Builder Pvt. Ltd continues to remain struck off from the register of companies, as on date.

5.4. The Executing Court is directed to firstly, pass appropriate orders on the objections filed by M/S Dewan Chand Builder Pvt. Ltd.

6. This Court also finds merit in the submission of the Petitioner that in view of the findings in the judgment of the LAC and the Reference Court, holding that the Petitioner and L&DO are the two interest parties entitled to compensation; no further evidence is to be led by the Petitioner or L&DO in the execution proceedings.

7. In view of the fact that there is no rival claimant before the Court; the Executing Court needs to examine and record what is the nature of further evidence, if any, required in the execution proceedings from the Petitioner or L & DO for releasing the compensation in accordance with the judgment of the Reference Court.

8. Secondly, this Court is of the opinion that in the facts of this case, the Executing Court should re-consider the application of the Petitioner for



release of compensation afresh, in accordance with law and without being influenced by the orders dated 26.02.2020 and 04.04.2018.

9. Accordingly, the impugned order dated 18.09.2023 is set aside and the present petition is disposed of in with the aforesaid directions. Pending applications, if any, stand disposed of.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 5, 2023/rhc/aa

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