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

+ **EX.P. 1/2019**

RAKSHA RANI

..... Decree Holder

Through: Mr. Jaideep Singh proxy counsel for
Mr. Lokesh Chopra, Adv.

versus

KRISHAN SHARMA & ANR

..... Judgement Debtors

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.01.2019

E.A. No.5/2019.

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

EX.P. 1/2019.

3. Execution is sought of a money decree dated 25th April, 2018. However the decree holder in column 10 of the format prescribed under Order XXI Rule 11(2) of Code of Civil Procedure, 1908 (CPC) for applying for execution, requiring the decree holder to state the “mode in which the assistance of the Court is required”, has merely stated,

“(a) By way of identifying the bank accounts of the Judgment Debtors for the purposes of realizing the awarded amount therefrom.

(b) By way of examination of the Judgment Debtors on any other property or means (including their bank accounts, fixed deposits, other valuable security/investment/property, movable or immovable etc. that can be utilised for the purposes of realizing the awarded amount therefrom.

- (c) *By appointing of a receiver for preserving the aforesaid assets, properties or means of the Judgment Debtors till sale thereof, to ensure the realization of the awarded amount.*
- (d) *By appointing and directing any person or officer, as this Hon'ble Court may be pleaded to appoint, for performance of all acts required to be done for the purposes of from the date of institution of the suit, i.e. 20.01.2010, till realization of amount for the Decree Holder and against the Judgment Debtors, at the sole expense of the Judgment Debtors."*

4. The decree holder has not stated as to what are the assets of the judgment debtors from which the decretal amount is sought to be realised.

5. Considering that the execution has been applied for within two years of the decree, there is no need to issue notice thereof and had the decree holder made the appropriate pleas in para 10, instead of wanting a notice to be issued, the decree could have been enforced immediately.

6. It is not the case that the decree holder has made enquiries and has been unable to come up with any assets of the judgment debtors. The judgment debtors are stated to be residents of a house in Delhi and it is inconceivable that there would be no assets of the judgment debtors from which the money decree cannot be executed.

7. Filing such applications for execution amounts to just initiating a litigation without intending to get any relief therein and serve no purpose.

8. This, inspite of the dicta of this Court in ***M.L. Gupta Vs. Aerens Gold Souk International Ltd.*** 2018 SCC OnLine Del 7621 dealing with the said

aspect.

9. Mr. Jaideep Singh, Advocate appears and states that he has been asked by Mr. Lokesh Chopra, Advocate to take an adjournment.

10. The application for execution is filed by a law firm and under the name of Mr. Rajneesh Chopra, Advocate and there is no need to adjourn the matter, especially when the execution application otherwise is found to be defective.

11. The decree holder, while applying again for execution, to also check whether the person who as attorney of the decree holder has signed and verified the execution petition, under power of attorney is authorised to do so.

12. The application for execution is thus rejected.

RAJIV SAHAI ENDLAW, J.

JANUARY 09, 2019

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