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

% ***Date of Decision: 24th April, 2025***

+ CM(M) 734/2025 & CM APPL. 24010-24011/2025

BRUSHMAN INDIA LTD.

.....Petitioner

Through: Ms. Shobhana Takiar and Mr. Kuljeet Singh, Advocates.

versus

M/S FRAMEWORK INTERIORS

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner Company is defending execution and is aggrieved by order dated 20.12.2024.
2. Ms. Shobhana Takiar, learned counsel for petitioner submits that in terms of liberty granted by this Court, the petitioner herein moved an application before the learned Executing Court seeking waiver of cost of Rs. 45,000/-. However, while disallowing such application, the petitioner company has further been burdened with another cost of same amount, for the reason that there is non-compliance of order passed by this Court.
3. Such order is under challenge.
4. I have seen order dated 19.09.2024 in CM(M) No. 731/2017, 738/2017 and 739/2017 when it was pointed out that there was issuance of *Show Cause Notice* to the Managing Director and the other two Directors of the Judgment Debtor Company(J D Company) as to why they should not be sent to civil prison for three months and simultaneously they were burdened with cost of Rs. 45,000/- . While disposing of the abovesaid petitions, this Court observed as under in para No.12:-



“12. Keeping in mind the averments made today by the learned counsel for both the sides and the impugned order dated 02.06.2017, only to the extent whereby show cause notice was directed to be issued against the Directors stand set aside, all the three petitions are disposed of with the following directions: -

(i) Ex. No. 5581/2016 is fixed before the learned Executing Court on 20.12.2024. On that day, the authorized representative of the JD company as well as said Managing Director i.e. Mr. Kapil Kumar would appear before the learned Executing Court.

(ii) It would be also open to the DH to move an application seeking preponement in the date with due intimation to the JD company.

(iii) If decree holder company has already filed any application, the learned Executing Court would hear arguments from both the sides and would dispose of the same in accordance with law.

(iv) Judgment debtor would also be at liberty to move any application in this regard and if any such application is moved, learned Executing Court would consider the same in accordance with law, after giving due opportunity to both the sides.

(v) Needless to say, if the learned Executing Court feels that any further affidavit is required to be filed either by the JD company or for that matter by its Directors, it would give due opportunity in this regard after passing reasoned order in this regard.

(vi) JD company shall file fresh affidavit before the learned Executing Court disclosing its assets in terms of Order XXI Rule 41 CPC.

(vii) JD company would be at liberty to move appropriate



application before the learned Executing Court seeking waiver of cost of Rs. 45,000/-."

5. Learned counsel for the petitioner submits that though in terms of para 12 (vi), there was a direction to JD Company to file fresh affidavit, disclosing its assets in terms of Order XXI Rule 41 CPC but the preceding clause i.e. para No.12 (v) was also to the effect that if the Executing Court was of the view that any further affidavit was required to be filed by JD Company or its Directors, it would give due opportunity in this regard, before passing any further order in the matter.
6. It is submitted that since there was no change in the assets of the JD Company, for all practical purposes, there was no real requirement of submitting a fresh affidavit.
7. It is submitted that such submission was made before the learned Executing Court when the matter was taken up on 20.12.2022 but was rejected.
8. It is submitted that there is no disobedience of any of the directions passed by this Court or avoidance or intention to delay the Execution proceedings, either. Rather, the representative of JD Company and its directors are appearing before the Executing Court as and when so directed and fresh affidavit was not filed merely on account of the fact that there was no change in the financial position of the JD Company. It is reiterated that the previous affidavit was filed on 02.06.2017 and there is no change in the financial assets.
9. During course of the arguments, learned counsel for petitioner submitted that if so directed by this Court, they would submit affidavit afresh, *albeit*, according to her, there would not be any change in the details with respect to the financial assets of Company.
10. The impugned order indicates that the waiver has been declined, primarily, for the reason that there is no compliance with respect to the direction given by this Court and since because of the abovesaid non-compliance, one more adjournment had to be given, the JD Company, in the abovesaid factual scenario has been



burdened with another cost of Rs. 45,000/- to be paid to the decree-holder.

11. Learned counsel for the petitioner at the moment confines her relief with respect to the imposition of cost. She submits that the Court has already issued a *Show-Cause Notice* to the Directors of the JD Company and she would file appropriate response to such *Show-Cause Notice* and in case, the *Show-Cause Notice* is not discharged, such directors would file appropriate petition before this Court and liberty to the abovesaid effect has been prayed.

12. Evidently, the petitioner Company was seeking waiver of cost of Rs. 45,000/- and instead of waiving the abovesaid cost, the petitioner company has rather been burdened with additional cost of Rs. 45,000/- for the reason that there is non-compliance of the order passed by this Court.

13. Keeping in mind overall facts and circumstances of the case, while maintaining the cost which had been imposed by the learned Trial Court vide order dated 02.06.2017, the additional cost imposed by the learned Executing Court of Rs. 45,000/- is hereby waived. However, it comes with a rider that in order to avoid any kind of ambiguity or confusion, the JD Company shall file affidavit afresh on the date fixed before the learned Trial Court i.e. on 26.04.2025.

14. The petition stands disposed of in aforesaid terms.

15. Pending application, if any, is also stands disposed of.

(MANOJ JAIN)
JUDGE

APRIL 24, 2025/sw/PB