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

\+ EX.P. 18/2019

INDRA SINGH & SONS PVT. LTD. ..... Decree Holder
Through: Mr.Sangram S. Saron, Advocate.

versus

ROOP INDER KAUR & ORS. ..... Judgement Debtors
Through: Mr. Gurmehar S. Sistani, Advocate for JD-7 to 10.
Mr. Vinay Gupta and Mr. Vinay Gautam, Advocates for JD-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 20.03.2019

EX. APPL.(OS) 72/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

EX. APPL. (OS) 136/2019

2. The counsel for the parties have been heard at length. There is a Settlement Agreement executed between the parties dated 16th August 2011 and pursuant thereto, a decree was passed by this Court on 20th December 2011 and the decree sheet was drawn up on 7th February 2019. The learned counsels for the parties do not dispute the Settlement Agreement. There are however issues which arise for executing the said Settlement Agreement. The first issue is with respect to the claim made by Ms. Roopinder Kaur (the party to the Settlement Agreement-first party). Learned counsel on her behalf submits that the share determined under the Settlement Agreement at

12 percent was on the premise that Judgment Debtor No. 1 owned only 350 equity shares in the Decree Holder Company. Subsequently, it has come to her knowledge that she actually owns 427 shares. Her claim is therefore on account of additional 77 shares of the Company which according to her would translate to her share being increased from 12 percent to 14.23 percent.

3. Learned counsel for the Decree Holder and Mr. Sistani strongly refute the said submission and urge that in fact in the Settlement Agreement, Clause 4 (iii) categorically provides that the first party shall relinquish her lien/right/interest in the shares held in the name of her parent late S. Ajaib Singh and Late Sardarni Prakash Kaur in M/s Indra Singh and sons private limited which is now known as (the Decree Holder Company). Mr. Sistani, Learned Counsel for Judgment Debtors 7 to 10 also submits that this increase in the share holding is only on account of shares that have fallen into the hands of Roop Inder Kaur from her parents and therefore in view of the aforesaid clause, there is no right in their favour to claim an increase in the share in the net sale proceeds as defined in Clauses 2 & 3 of the Settlement Agreement.

4. The learned counsel for the parties jointly consent that in order to resolve this issue and to make a further headway, the differential amount of 2.23 per cent of the sale consideration defined in Clause 2 & 3 of the Settlement Agreement, be deposited before this Court by the Decree Holder Company. It is further clarified that the payment of 2.23 percent before this Court would not in any way affect the shares of the second party as defined under

the Clause 3 (ii) of this agreement. Further orders with respect to the appropriation of the said amount would be passed as and when the sale transaction is completed.

5. It is next pointed out by the Judgment Debtors that in terms of the Settlement Agreement, an amount of Rs. 50 crores is required to be kept aside for settling the liability in Company Petition No. 69/2008 filed by Tata Steel and Indian Steel and Wire Products Ltd. which is stated to be pending before this Court. In order to clarify the position, all the counsels present today state that it is without any doubt that amount of Rs. 50 crores is the maximum limit of the potential liability. In the event the liability exceeds the amount of Rs. 50 crores, the same would be settled exclusively by the Decree Holder Company. It is also further agreed between the parties and clarified that in the event, the liability is less than Rs. 50 crores, the benefit would enure to Decree Holder.

6. Learned counsel for the Judgment Debtor No. 1 further points out that the letter dated 16th October 2018, which has been filed along with the execution petition has not been authored by his client and he does not agree to any of the statements made therein that are contrary to the terms recorded in the Settlement Agreement. In particular, he draws the attention to Clause 1 (iii) of the said letter which reads as under:

> "iii) The following amounts not mentioned in the Settlement Agreement shall also be deducted/set aside by the Company from the Total Sale Consideration in order to facilitate the Sale:
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> a) Outstanding Property tax demand for 17 Tughlak Road determined by the NDMC.

b) Brokerage as negotiated by the Company not exceeding 1.00%.

c) Stamp Duty @ 7.0% of circle rate or as applicable on the transfer of the property to the purchaser."

7. Learned counsel for the Decree Holder is not able to point out any of the aforesaid clauses forming part of the Settlement Agreement.

8. Learned counsel for the Decree Holder points out that in order to complete the sale transaction, it is necessary that the Judgement Debtor vacate the property for which the execution is being sought. The Judgment Debtors assure that they would vacate the respective portions of the property that are in their possession on or before 30th June 2019, subject to the Decree Holder Company fulfilling its obligations as provided in the Settlement Agreement. Further steps would be undertaken by the parties in terms of the Settlement Agreement. The Decree Holder now is directed to circulate a draft agreement to sell disclosing the sale consideration amount to the parties and in case the Judgment Debtors would have a better offer than the one being mentioned in the said agreement to sell, the parties would be free to approach this Court for final resolution of the matter within two weeks thereafter.

9. List for further consideration on 14th May 2019.

SANJEEV NARULA, J

MARCH 20, 2019
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