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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ EX.P. 31/2024

RAMA NANDA & ORS.

... Decree Holders

Through : Mr. M.S. Vinaik and  
Ms. Gaikhuanhung,  
Advocates with  
Mr. Raj Nath Nanda,  
Decree Holder No. 3.

versus

KIDARSONS INDUSTRIES PVT LTD & ORS. ... Judgement Debtors

Through : Mr. Prabhav Bahuguna,  
Advocate with  
Ms. Madhu Nanda,  
Judgement Debtor No. 5.

AND

+ EX.P. 32/2024

KIDARSONS INDUSTRIES PVT LTD

... Decree Holder

Through : Mr. Prabhav Bahuguna,  
Advocate with  
Ms. Madhu Nanda,  
Director of Decree Holder.

versus

HANSA INDUSTRIES PVT LTD & ORS. ... Judgement Debtors

Through : Mr. M.S. Vinaik and  
Ms. Gaikhuanhung,  
Advocates with  
Mr. Raj Nath Nanda,  
Judgment Debtor No. 3.

CORAM:

REGISTRAR (ORIGINAL) MR. ALOK MADAN



ORDER



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09.12.2024

1. These cases were listed on 13.11.2024, in compliance with the directions passed by the Hon'ble Court vide Order dated 14.10.2024, for tracing the original title documents of the immovable properties (i.e., 41, Golf Links, New Delhi and C-326, Defence Colony, New Delhi) and offering an inspection of the title documents to the parties herein and thereafter placing them in a sealed cover. The relevant paras of the order-sheet dated 13.11.2024 read as under:-

“... ..

The concerned Dealing Assistant, namely, Ms. Neelam Chaudhary, SJA, submits that *prima facie* it appears that title documents of both the immovable properties were filed in Execution Case No. 103/1993 titled “*M/s. Kidarsons Industries Pvt. Ltd. vs. M/s. Hansa Industries Pvt. Ltd. & Ors.*”. She further submits that, as per the information available on the intranet of this Court, the said Execution Case stands disposed of as infructuous vide Order dated 06.04.2010 and the records thereof have been consigned to RKD way back on 05.08.2011. Since the information/report from RKD Branch is awaited, she requests for some time.

Let a written report be obtained from the RKD Branch through the Deputy Registrar (RKD) concerned as well as the Custodian of the Original Side through the Deputy Registrar (Original) concerned in respect of the availability and/or non-availability of the original title documents (i.e., original title deed dated 08.05.1978 of 41, Golf Links, New Delhi and dated 31.03.1965 of C-326, Defence Colony, New Delhi). Report of the RKD Branch to specifically mention the details regarding weeding out of the records of Execution Case No. 103/1993. The concerned AOJ (RKD) to remain present on the next date.”

2. Accordingly, the matter was listed on 22.11.2024. The order-sheet dated 22.11.2024 is in the following terms:-

“Perused the report given by the Custodian of the Original Side (at page 14 of Part-V of Ex.P. 32/2024) as well as the report given by the RKD (Original) (at page 17 of Part-V of Ex.P. 32/2024).



Mr. Alok Kumar Sharma, RKD (Original), present with Mr. Amit Kumar, JA, stated that case-file of Ex.P. No. 103/1993 was returned to the concerned Dealing Assistant in August, 2015. However, on asking to show the receipt thereof, a register was produced – a perusal of the relevant pages thereof revealed that it does not contain any signature/acknowledgement of receipt of the said case-file, while rest of the pages, i.e., two pages prior to the said entry as well as two pages after the said entry, duly bear the signature/acknowledgement of the concerned Dealing Assistant. Hence, the plea sought to be taken that in rush of work, the receiving could not be taken by the then officials, cannot be accepted. Mr. Alok Kumar Sharma requested that at least two weeks' time may be granted to try to make another attempt to trace the said case-file in RKD Branch of this Court, Karkardooma Courts and Rouse Avenue Courts where the case-files of RKD are lying. The said photocopies of five pages of RKD's register be placed in Part-V of Ex.P. 32/2024. *{The same are at pages 28 to 32 in Part-V of Ex.P. 32/2024.}*

The present concerned Dealing Assistant, namely, Ms. Neelam Chaudhary, SJA, present with Mr. Gulfam, JJA of the Original Branch, stated that they tried to trace the said case-file in Original Branch but to no avail. However, they will also make another attempt to trace the same in Original Branch.

Let fresh written report be submitted by the RKD Branch through its Registrar in respect of the availability and/or non-availability of the case-file of Ex.P. 103/1993 and the original title documents (i.e., original title deed dated 08.05.1978 of 41, Golf Links, New Delhi and dated 31.03.1965 of C-326, Defence Colony, New Delhi). The concerned AOJ (RKD) to remain present on the next date also.

List on 09.12.2024.”

3. Today, i.e., 09.12.2024, the concerned Dealing Assistant, namely, Ms. Neelam Chaudhary, SJA present along with Mr. Gulfam, JJA, submits that though concerted efforts were made to trace the case-file of Ex.P. 103/1993 in the Original Branch, yet they could not find the same in the Original Branch. The latest report is at page 33 of Part-V of Ex.P. 32/2024. She further submits that no report has been received from the RKD Branch. However, Mr. Alok



Kumar Sharma, AOJ (RKD) informed that extensive search exercise was carried out at all the places where the records/case-files of RKD are lying, but they could not trace the case-file of Ex.P. 103/1993.

4. The scanned data of case-file of Ex.P. 103/1993 was searched on the computer through the link of e-data available with the undersigned and the same was found on the intranet (10.25.196.74) of this Court in the link/folder 'jrd\_weedout' in the form of following three (3) files:-

- (i) Ex.P.-103-1993(D) : Containing Documents including the letter dated 06.09.1993 and the title documents of the immovable properties (i.e., 41, Golf Links, New Delhi and C-326, Defence Colony, New Delhi);
- (ii) Ex.P.-103-1993(J) : Containing Judgment(s) & Orders; and
- (iii) Ex.P.-103-1993(P) : Containing Pleadings, Documents, etc.

5. All the above-said three (3) files were digitally signed by Mr. Hans Raj Verma on 26.08.2015. Hence, it appears that the records of Ex.P. 103/1993 stand weeded out. Had the same been not weeded out, the said scanned data / e-data would have found in the link/folder 'pending\_data' and not in the link/folder 'jrd\_weedout'.

6. At this stage, Mr. M.S. Vinaik, learned counsel points out that the letter dated 06.09.1993 signed by Mr. A.T. Patra of O.P. Khaitan & Co. {addressed to the Registrar, Delhi High Court, New Delhi} vide which the title documents were stated to have been deposited in this Court can be found at two places and a bare perusal of the said identical letter, at two different places, would reveal that there are following variations / differences:-

|                                                                                                                                |                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Letter dated 06.09.1993 at <b>Page 3</b> of the file <b>Ex.P.-103-1993(D)</b> filed as covering letter of the title documents. | The receipt stamp is on 'top' in left side. It contains 'no signatures'. The receipt date mentioned is '8.9.1993' and, apparently, there is over-writing. |
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Letter dated 06.09.1993 at **Page 461** of the file **Ex.P.-103-1993(P)** filed as **Annexure-‘B’** to E.A. 249/1998 in E.A. 173/1993 in Ex.P. 103/1993.

The receipt stamp is in ‘middle’ in left side. It contains ‘signatures’. The receipt date mentioned is ‘7.9.1993’.

7. However, in the absence of the physical case-file/records of Ex.P. 103/1993, the said aspect cannot be gone into and/or examined.

8. Be that as it may, it would be appropriate to refer to and reproduce the relevant portion of the office noting dated 06.02.1995 {*at page 499 of the scanned / e-data of Ex.P.-103-1993(P)*}, which reads as under:-

“It is submitted that the bank draft bearing No. 042127 dated 6/9/1993 for a sum of Rs.4,45,212/- was filed by the counsel for the decree-holder along with some original documents on 07/09/93 and under the impression that the bank draft is the part of documents the same was placed on record along with documents.

The fact came into my notice only on 31-1-95 when the counsel for J.D. inspected the file and dealing assistant to add the original documents filed by the decree-holder which were very well present on the record of the file.”

(emphasis supplied)

9. AOJ (Portfolio) is directed to make the scanned data / e-data of Ex.P. 103/1993 available in a separate folder in the e-data of the present matters, i.e., Ex.P. 31/2024 and Ex.P. 32/2024 for ready reference and perusal of the Hon’ble Court.

10. List before the Hon’ble Court on the date already fixed, i.e., **13.12.2024**.

**REGISTRAR (ORIGINAL)**

**DECEMBER 09, 2024**