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

+ **CONT.CAS(C) 1058/2023 & CM APPL. 17055/2024**

M/S PURNIMA ASSOCIATES PVT. LTD. Petitioner

Through: Mr. Sanjay Poddar, Senior Advocate
with Ms. Puja Kalra, Mr. Govind
Kumar, Ms. Muskan Puri, Mr.
Virendra, Mr. Moksh Tyagi and Mr.
Siddhant Poddar and Mr. Saksham
Kaushik, Advocates.
(M): 8929929789

versus

SH. KAMAL KUMAR GUPTA DIRECTOR OF M/S PP

JEWELLERS PVT LTD Respondent

Through: Mr. Priyadarshi Chaitanyashil with
Mr. Tejaswi Bhanu, Advocates for
respondent no. 1, 2, 4 and 5.
(M): 8130109973
Mr. Himanshu, Advocate for
applicant.

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER
19.03.2024**

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CM APPL. 17055/2024

1. The present application has been filed alleging that the respondents are disobeying the restraint order dated 22nd March, 2017 passed by the learned Debt Recovery Tribunal (“DRT”) passed in *O.A. No. 292/2017*.



2. Learned Senior Counsel appearing for the petitioner/applicant has drawn the attention of this Court to para 8 of the application, wherein the relevant portions of the order dated 22nd March, 2017 passed by the learned DRT has been extracted, as under:-

“xxx xxx xxx

8. That on 22.03.2017 the Ld. DRT had passed the Restraint order in OA 292 of 2017, wherein the PPJPL is the Respondent including the directors of the Company Sh. Kamal Gupta(R-1 herein) and Sh. Pawan Gupta (R-3 herein) were impleaded by State Bank of India as Defendant No. 3 and Defendant No. 4 respectively. The extract of order is reproduced below : -

“The defendant no.2, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of mortgage properties i.e. property no.2129-2130, Block-J, Gali No.59, Ward No.XVI, Gurudwara Road, Karol Bagh & (ii) property at C-8/4, Rana Pratap Bagh, Delhi-110007, until further orders. :

6. The defendant no.6 & 7, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of mortgage property i.e. Plot No.23, adjoining House No.A-332, Defence Colony, New Delhi, until further orders.

7. The defendant no.8, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of mortgage property i.e. 4262 to 4265, Gali Bharonji, Jogi Wara, Nal Sarak, Delhi, until further orders. :

8. The defendant no.3, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of property i.e. property at 57 Burtala Street, Kolkata, West Bengal, until further orders.

9. The defendant no.2, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of property no. C-19, Rana Pratap Bagh, Delhi, until further orders.

10. The defendant no.2, their man or agents are restrained from alienating or creating any sort of encumbrance in respect of property i.e. 2129-2130 Karol Bagh, New Delhi, until further orders.

11. The defendant no.2, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of



property at Pandawala Kalan, Delhi, until further orders

In these circumstances, the defendant no.1, their men or agents are restrained from alienating or creating any sort of encumbrance in respect of hypothecated stocks and machinery lying at P.P. Tower, H- 5, Netaji Subhash Place, Pitam Pura, Delhi-34 and/or any other place or in transit, except dealing with the ordinary course of business, until further orders. :

The order dated 22.03.2017 by Ld. DRT-II clearly restrained the PPJPL from any distribution of property included but not limited to stocks and machinery lying at P.P. Tower, H-5, Netaji Subhash Place, Pitam Pura, New Delhi- 110034.

xxx xxx xxx”

3. Learned Senior Counsel appearing for the petitioner/applicant submits that despite the aforesaid restraint order passed by the learned DRT, the respondents are creating encumbrances on the property. He submits that the respondents have transferred stocks to a related company i.e. M/s PP Jewellers Retails Private Limited.
4. Attention of this Court has been drawn to *Annexure-3* attached with the present application, wherein details have been given with respect to transactions from *PP Jewellers Private Limited* to *PP Jewellers Retails Private Limited* for the period from 01st April, 2017 to 31st March, 2018. It is further submitted that the details of the materials that have been transferred to *PP Jewellers Retails Private Limited* have also not been shown in its balance sheet by *PP Jewellers Private Limited*.
5. Thus, it is submitted that in order to circumvent the restraint order dated 22nd March, 2017, stocks have been transferred to the related company subsequently.
6. Attention of this Court has also been drawn to the report of the Local Commissioner filed before the learned DRT in *O.A. No. 940/2019*, relevant



portion of which reads as under:-

“xxx xxx xxx

3. That the undersigned with Ms Uttara Mahto, Chief Manager, State Bank of India, SAMBI, Delhi on the date decided i.e. 23.01.2020 visited P.P Tower, H-5, Netaji Subhash Place, Pitam Pura, Delhi-34 at 12:00 P.M. where the undersigned met with Mr Mohit Gupta, (Son of Mr Kamal Kumar Gupta, Mobile Number : 9810548146), Ms Anita Kathurie, (Manager, Mobile Number: 9871594096) & Mr Ajay Goel (Accounts/Legal, Mobile Number: 7042500209) assisted the undersigned and informed that the show room has opened half an hour ago and is just opened for the customers.

xxx xxx xxx”

7. Thus, it is submitted that though the aforesaid Ms. Anita Kathurie was earlier the manager of *PP Jewellers Private Limited*, however, she has now been made a proprietor of *Shree Ganesh Jewellers*.

8. Attention of this Court has been drawn to *Annexure-7* filed along with the present application, which shows that the date of registration of *Shree Ganesh Jewellers* is 27th September, 2017, which is after the restraint order dated 22nd March, 2017.

9. Attention of this Court has also been drawn to the stock statement which shows the transfer of stock to various other companies i.e. *Durga Trading co.*, *Shree Ganesh Jewellers*, *DRS Jewellers Pvt. Ltd*, *Jaina Jewellers*, *Anurag Jewellers NAC*, *New Shakti Abhushan Bhandar*. The stock statement as attached along with the present application is reproduced as under:-



Stock Statement **26-03-2018**
Part-B **BOOK-DEBTS**

AGE WISE ANALYSIS OF BOOK DEBTS

Rs. in CRORES
Amount in crores

	0-90 days	91-180 Days	181-360 days	Total
Export Receivables-				
Veena jewellery LLC	3.06	3.05	0.00	6.11
Kishek International	0.00	0.00	0.00	0.00
Total	3.06	3.05	0.00	6.11

Particulars	Upto 90 Days (permissible cover period)
Domestic Receivables-	-
Durga trading co.	1.78
Shree Ganesh Jewellers	4.37
DRS Jewellers Pvt. Ltd.	0.25
Jaina Jewellers	0.98
Anurag Jewellers NAC	0.23
New Shakti Abhushan Bhandar	0.28
Others	0.90
Sub Total	8.79
Less-	
Dues from Associates/ Affiliates/Subsidiaries	0
TOTAL	8.79

* To be considered for Computation of Drawing Power (8.79+6.11)

14.90

10. Learned Senior Counsel further submits that the respondents, after siphoning of the stocks and various amounts to other companies, have now declared the same as *Bad and Doubtful debts*. Attention of this Court has been drawn to page 146 of the present application, wherein the allowance for *Bad and Doubtful debts* as on 31st March, 2021 has been shown as Rs. 208,64,34,916/-.

11. Issue notice.



12. Notice is accepted by learned counsel appearing of Mr. Kamal Kumar Gupta and Mr. Pawan Kumar Gupta.
13. Let replies be filed by both the parties within a period of four weeks. Rejoinder thereto, if any, be filed within one week thereafter.
14. In the replies, the respondents i.e. Mr. Kamal Kumar Gupta and Mr. Pawan Kumar Gupta shall specifically give details of all the transactions that have been made by *PP Jewellers Private Limited* after the restraint order dated 22nd March, 2017.
15. List on 14th May, 2024, i.e., the date already fixed.

MINI PUSHKARNA, J

MARCH 19, 2024

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