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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.P. 44/2016

LAKSHMI BUILDERS

..... Decree Holder

Through

Mr. Vikas Tiwari, Adv.

versus

DEVINDER LAKRA

..... Judgement Debtor

Through

Mr. Pankaj Singh, Adv. for Garnishee

CORAM:

SANJAY JINDAL (DHJS), JOINT REGISTRAR (JUDICIAL)

O R D E R

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02.01.2018

E.A. No.451/2017 u/O I R 10 CPC filed by Vodafone Mobile Services Limited (the proposed Garnishee)

Heard.

By way of present application, the applicant has prayed for deletion of its name from the array of parties in the Ex. P. No.44/2016 on the ground that the respondent has already transferred the business of running Mobile Towers to another company i.e. Indus Tower Ltd.

On perusal of records, it is revealed that the decree holder has filed the execution petition no.44/2016 against the judgment debtor, wherein an application vide E.A. No.397/2017 has already been filed by the decree holder seeking certain directions against the Garnishee/applicant regarding payment of rent of mobile tower installed by the Garnishee on the top of the premises owned by the judgment debtor. The notice of the said application was issued to the present applicant/proposed Garnishee by the Hon'ble Court vide order dated 08.11.2017, returnable on 25.01.2018.

The present application filed by the applicant is actually in

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response to the notice issued on the E.A. No.397/2017 by the Hon'ble Court and the applicant can very well raise the issue of transfer of business in its reply/response to E.A. No.397/2017. The applicant is not a '*party*' in terms of the provisions of Order I R 10 CPC as the present proceedings are execution proceedings and not a suit. The applicant is not even a party to the execution proceedings and has been served only with a notice on the interlocutory application as mentioned above.

In these circumstances, I am of the considered view that the present application is not maintainable in its present form. Accordingly the present application is dismissed. IA stands disposed of.

Ex.P.44/2016

In terms of earlier order, put up before the Hon'ble Court on the date already fixed there i.e. on 25.01.2018, for further directions.

**SANJAY JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)**

JANUARY 02, 2018/ab