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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ EX.P. 44/2016, Ex.A.(OS)233/2016(u/O.XXI R.64-67 & 54(2) CPC),
Ex.A.(OS)686/2016(u/S.151 CPC), Ex.A.(OS)332/2017(u/O.XXI R-
72(2) CPC), Ex.A.(OS)345/2017(u/O.XXI R-58, 59 7 60 CPC),
Ex.A.(OS)397/2017(u/O.XXI R-46&46(A) CPC) &
Ex.A.(OS)406/2017(u/O.XXI R-30&41 r/w S-38 CPC)
LAKSHMI BUILDERS Decree Holder

Through: Mr. Vikas Tiwari &
Mr. Faisal M. Khan, Advs. along with
LR of decree holder.

Versus

DEVINDER LAKRA Judgement Debtor
Through: Mr. Azmat H. Amanullah, Adv.
for Vodafone.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **12.09.2019**

1. The counsel for the objector Encore Asset Reconstruction Company Pvt. Ltd. has contended that it is the purchaser from Allahabad Bank of the security in the form of equitable mortgage created by the judgment debtor along with his mother and brother, of the four properties with respect where to, in this Execution Petition vide order dated 18th March, 2016, order of attachment has been issued.
2. The counsel for the objector, on enquiry states that the mortgage was created in the year 2009-10; proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest

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Act, 2002 (SARFAESI Act) were initiated in the year 2013-14; that steps under Section 14 of the SARFAESI Act had been taken and whereagainst appeals have been preferred by the judgment debtor under Section 17 of the SARFAESI Act. It is further argued that the decree holder, in reply to the objections, is challenging the mortgage but it can be done only by way of an appeal under Section 17 of the SARFAESI Act and cannot be the subject matter of adjudication in this execution.

3. The counsel for the decree holder, on enquiry whether in the suit, of decree wherein execution is sought, there was any order of attachment before judgment of the subject property, states that there was an order restraining the judgment debtor from dealing with the properties. He is, however, unable to give the date of the order and/or tell whether the said order has been placed on record.

4. List on 23rd January, 2020.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 12, 2019
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