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

+ EX.P. 44/2016 & Ex. APPLs. (OS) 233/2016, 332/2017, 345/2017, 1110/2020, 376/2021 & 168/2022

LAKSHMI BUILDERS

..... Decree Holder

Through: Mr. Vidit Agarwal, Advocate
(M:8384877576)

versus

DEVINDER LAKRA

..... Judgement Debtor

Through: Mr. Rakesh Singh, Advocate
for objector father of JD
(M:7597392295, email: rakesh745892@gmail.com)
Mr. Ashok Jain, Mr. Amit Kasera, Advocates for
objector/Encore (earlier
Allahabad bank)
(M:9810012586)
Mr. AK Singh, Advocate for
Indus Towers.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

17.11.2022

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[Physical Hearing/ Hybrid Hearing]

1. By present execution petition, decree is sought to be executed by way of sale of 4 properties, details of which have been given in the execution petition.
2. Ld. Counsel for the Encore Asset Reconstruction Company Private Limited submits that the properties bearing No. 501-502, out of Khasra No. 339, Deedarpur, Near Shiv Mandir, Nazafgarh, Delhi – 110043; part and parcel of the property comprised in plot no.499, out



of Khasra No. 339, Deedarpur, Near Shiv Mandir, Nazafgarh, Delhi – 110043 and part and parcel of property comprised in plot no.498, out of Khasra No. 339, Deedarpur, Near Shiv Mandir, Nazafgarh, Delhi – 110043 are mortgaged by deposit of title deeds with the Encore Asset Reconstruction Company Private Limited. He submits that the Encore Asset Reconstruction Company Private Limited has also initiated proceedings under The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act), by issuing of notices under the said act. Thus, he submits that the present execution *qua* the said properties, is not maintainable.

3. Ld. Counsel for the Judgment Debtor submits that the 4th property, i.e., property bearing No. 663, Village: Mundka, Delhi does not belong to him. He submits that the said property is under the ownership of his father. On the other hand, Id. Counsel appearing for the decree holder submits that he may be allowed to file documents pertaining to the title of the said properties situated in Village Mundka, as according to him, the said property belongs to the Judgment Debtor and not to father of Judgment Debtor.

4. Similar directions had been given to the Decree holder by an order of 11.02.2022 and thereafter again by order dated 05.09.2022. It is clarified that the directions as contained in the order dated 05.09.2022 in paragraphs-7, 8 & 9 are to the Decree holder and not to Judgment debtor, as inadvertently recorded in the order of 05.09.2022. In view of the aforesaid, last opportunity is given to the counsel for Decree holder to file requisite documents before this Court.



5. Ld. Counsel appearing for the Judgment debtor, as well as for Encore Asset Reconstruction Company Private Limited submits that the copy of the execution petition has not been served upon them by the Decree holder. Ld. Counsel appearing for decree holder is directed to serve copies of execution petition to the Id. Counsels.

6. Mr. Rakesh Singh, Advocate submits that he is appearing only for father of the Judgment debtor and not for the Judgment debtor.

7. Mr. A.K. Singh, Advocate appears on behalf of Indus Towers and submits that their tower is existing in property No. -502, out of Khasra No. 339, Deedarpur, Near Shiv Mandir, Najafgarh, Delhi – 110043. He submits that Indus Towers had received notice under Section 226 of the Income Tax Act, whereby it was stated that Income Tax Department had certain dues which were due and payable by the Judgment Debtor. Thus, under directions of Income Tax Department, the rent payable by Indus Towers to the Judgment debtors, is now being deposited with the Income Tax Department. He submits that he shall file an affidavit on that account and also place the requisite documents on record. Let the said affidavit be filed within a period of two weeks along with requisite documents. Needless to say advance copy of the affidavit shall be served upon all the respective parties before filing the affidavit including Id. Counsel appearing for the Encore Asset Reconstruction Company Private Limited.

8. In the last order, this Court had directed Delhi State Legal Services Authority (DSLISA) to contact the Judgment debtor, i.e., Mr. Devinder Lakra who is stated to be lodged in Bhunshi Jail, Gurugram, Haryana since the year 2019. Let steps be taken by DSLISA for the



purposes of appointment of an Advocate for Judgment debtor in terms of the last order. Copy of the order be sent to Delhi State Legal Services Authority (DSLISA).

9. List on 06.02.2023.

MINI PUSHKARNA, J

NOVEMBER 17, 2022

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