

via video conferencing

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

+ O.M.P.(EFA)(COMM.) 6/2016

DAIICHI SANKYO COMPANY, LIMITED Decree Holder
Through: Mr. Arvind K. Nigam, Sr. Adv.
Mr.Arun Kathpalia, Sr. Adv. with
Mr.Amit K. Mishra, Mr. Mohit Singh,
Ms. Samridhi Hota, Ms. Kanika
Singhal, Mr. Shivam Pandey, Mr.
Turab Ali Kazmi, Ms. Saloni
Agarwal, Mr. Kunal Chatterji,
Mr.Aditya Shankar, Mr. Rohan
Jaitley Mr.Kauser Husain & Ms.Bani
Brar, Advs.

versus

MALVINDER MOHAN SINGH AND ORS..... Judgement Debtors
Through: Mr. Dhruv Mehta, Sr. Adv., Mr. Anuj
Berry, Mr. Abhik Chakraborty, Mr.
Shikhar Mehra & Mr. Keith
Varghese, Advs. for Yes Bank
Limited.
Mr.Sanjay Jain Sr. Adv. with
Mr.Saleem Hasan, Adv. with Mr.
Abhijit Mittal & Mr.Rohit Dahiya,
Advs. for Fortis Healthcare Ltd. And
Fortis Hospitals Limited.
Mr. Aditya Dewan & Mr.Siddharth
Chechani, Adv. for JD-6 to JD-8.
Ms. Suman Yadav, Mr. Aditya Sarin
Adv., Mr. Shobhit Ahuja Advs. for
JD-1, 3, 4 & 13.
Mr. Akhil Sibal, Sr. Adv. along with
Mr. Varun Mishra, Adv. for JD-14,
15,18 & 19.

Mr.Vipin Tyagi, Adv. for Religare Enterprise Ltd. & Religare Finvest Ltd.

Mr. Tejveer Bhatia, Mr. Lakshay Laroia and Mr. Kunal Vats, Advs. for Gulsan Homz.

Mr.Aashish Gupta & Mr.Varun Byreddy, Advs. for Garnishee Nos.12, 13, 14 & 20.

ORDER

11.09.2020

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I.A.9262/2018, E.A.31/2020, E.A.590/2020

1. Vide the present applications, the decree holder (DH) has, besides seeking a number of other reliefs, sought the sale of 'Religare', 'SRL' and 'Fortis' trademarks owned by the JD No.19.
2. Learned Senior counsel for the DH submits that in view of the stand taken by JD No. 19, it is evident that it has no objection to the sale of these trademarks. He, therefore, prays that the application be allowed to the extent that the DH can receive some amount, at the very least, towards partial satisfaction of the award.
3. In this regard, Mr. Akhil Sibal learned senior counsel for JD Nos.14, 15, 18 and 19, while conceding that the said JDs have no objection to the sale of these trademarks, submits that he has instructions to state that the three subsidiaries of JD No. 19 i.e. RHC Healthcare Management Services Pvt. Ltd. for 'Fortis', Headway Brands Pvt Ltd. for 'SRL' and Elive Infotech Pvt. Ltd. for 'Religare' also do not object to this sale. He assures the Court that the affidavits on behalf of all the aforesaid three entities to this effect will be filed within ten days. However, learned counsel for JD Nos.6 to 8,

while submitting that the said JDs also agree, in principle, to the sale of the these three trademarks, prays that orders of sale be deferred to enable him to place on record before this Court a copy of the affidavit filed by these JDs before the Hon'ble Supreme Court in this regard.

4. On the other hand, Mr Sanjay Jain, learned senior counsel for Fortis Healthcare Ltd. and Fortis Hospital Ltd. vehemently opposes the sale of these trademarks and submits that both Fortis Healthcare and Fortis Hospitals have a subsisting charge on the 'Fortis' trademark. He further submits that Fortis Healthcare and Fortis Hospitals could not place their stand in this regard before this Court, as they were not supplied with copies of the JDs' reply. He, therefore, prays for and is granted one week's time to file an additional affidavit in this regard.

5. In a similar vein, Mr. Vipin Tyagi, learned counsel for Religare Enterprise Ltd. and Religare Finvest Ltd. also opposes the sale of the 'Religare' trademark and contends that the copies of the JDs' reply in this regard were not supplied to him, which also prevented him from placing the stand of Religare Enterprise Ltd. and Religare Finvest Ltd. He also prays for one week's time to file the requisite affidavit.

6. Even though there is no justification for granting any further time to these parties, in the interest of justice, one week's time is granted to the Fortis Healthcare Ltd., Fortis Hospital Ltd., Religare Enterprise Ltd. and Religare Finvest Ltd. to place their stance in respect of the sale of 'Fortis' and 'Religare' trademarks.

7. List these applications for consideration of the aforesaid aspects on 08.10.2020.

EA No.145/2020

8. This is an application filed by garnishee Nos.12, 13, 14 and 20 seeking exemption from complying with the order dated 14.11.2019 passed by this Court directing them to file copies of their income tax returns, bank statements and balance sheets. A detailed reply has been filed by the DH opposing the said application.

9. I have heard learned counsel for the said garnishees at some length and find that the directions in question, passed by this Court, were given in view of the stand adopted by some garnishees that they did not owe any amount to the JDs. The Court had also granted liberty to the DHs to serve interrogatories in case of incomplete/insufficient disclosures by the garnishees/JDs. In my view, these documents are essential to enable the learned Joint Registrar/Court to determine the merit in the stand of the garnishees who are disputing their liability qua the JDs. I, therefore, see no reason to exempt the applicants from filing copies of their income tax returns, bank statements and the balance-sheets.

10. At this stage, learned counsel for the applicant prays that final orders in the application be deferred to enable him to obtain instructions on whether the garnishees are willing to file their income tax returns in a sealed cover, which shall be de-sealed by the learned Registrar, copies whereof will be supplied to the DH and the concerned JDs only subject to their filing an undertaking to maintain confidentiality in respect thereof.

11. List the present application on 15.09.2020.

E.A. 668/2019, E.A. 625/2020, E.A. 815/2020

12. Learned Senior counsel for Yes Bank Ltd. as also for JD Nos. 14, 15, 18 & 19 have made submissions.

13. List for submissions to be made on behalf of the DH on 17.09.2020 at the end of the board.

REKHA PALLI, J

SEPTEMBER 11, 2020

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