

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>FA No.187 of 2022  <u><b>Hon'ble Vivek Bharti Sharma, J.</b></u></p> <p>Mr. Siddhartha Singh, Advocate for the appellant.</p> <p>2. Mr. D.S. Mehta, Advocate for respondent no.1.</p> <p>3. Mr. Ravnit Malhotra, Advocate for respondent no.2 through V.C.</p> <p>4. Learned counsel for the appellant would submit that on the last date of hearing i.e. on 04.09.2023 this Court had recorded the undertaking given by respondent nos.1 and 2 that they will not prosecute the execution proceedings in Execution Case No.6/2023 till the next date of hearing and had fixed the case for 08.12.2023, however, on 08.12.2023 the Bench was not available; that, after 08.12.2023 the respondents have started pursuing the executing case in breach of their solemn undertaking given in the Court.</p> <p>5. Learned counsel for respondent nos.1 and 2 would fairly admit the above submissions made by counsel for the appellant but at the same time would submit that by the same order i.e. 04.09.2023 the appellant was also directed to submit the accounts of the total receipts and the profits made from the property from the date of MoU till 31.10.2023 by way of affidavit with advance copy to the counsel for the respondent nos.1 and 2 but when the appellant did not comply with this direction till 08.12.2023, the respondents were constrained to pursue the</p>

execution proceedings.

6. To this, learned counsel for the appellant would submit that due to some unavoidable circumstances the appellant could not submit the affidavit of accounts till 08.12.2023 and this fact could not be brought into the notice of the Bench because of non-availability of Bench on 08.12.2023.

7. At this stage, learned counsel for respondent nos.1 and 2 would submit that the appellant is sitting in the property of respondent nos.1 and 2 and earning profits without complying with the direction given in order dated 04.09.2023. They would, however, submit that they are ready to give fresh undertaking that the respondent nos.1 and 2 will not pursue the Execution Case No.6/2023 till the next date of hearing.

8. The undertaking given above is accepted.

9. List on the date already fixed i.e. 15.03.2024.

10. The appellant is directed to file affidavit, as directed in para 8 of order dated 04.09.2023, within a week with advance copy to the respondents by registered post and email as well as to Mr. D.S. Mehta, counsel for respondent, if available in the Court.

10. It is clarified that if the above affidavit is not filed by the appellant within the stipulated time, the respondents shall be discharged from the undertaking made in the Court today.

11. Urgency Application IA No.8/2023 is disposed of.

**(Vivek Bharti Sharma, J.)**

02.01.2024