



## **HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA**

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

**BEFORE ADJUDICATING OFFICER**

**EXECUTION NO. 3395 OF 2022**

**IN**

**COMPLAINT NO. 996 OF 2019**

Rupesh Kumar Singh

....DECREE HOLDER

**VERSUS**

M/s Ferrous Infrastructure Pvt. Ltd.

....JUDGMENT DEBTOR

**Date of Hearing:** 23.12.2024

**Hearing:** 13<sup>th</sup>

**Present:** Mr. Dinesh Kumar Dakoria, Advocate, for decree holder

None for the judgment debtor

None for Resolution Professional.

### **ORDER**

Today, the case is fixed for enabling the decree holder to move an application to implead M/s Newstone Real Developers Pvt. Ltd., as a necessary party in the present execution, as a sale deed 18.01.2023 in its favour has not been set-aside by Hon'ble NCLT, New Delhi, as per its order dated 04.09.2024.

An application under Section 151 CPC is moved on behalf of the decree holder to proceed against the present decree holder and also M/s Newstone Real Developers Pvt. Ltd., in view of the order dated 21.11.2024 passed by Hon'ble Authority at Panchkula in Complaint no.3275 of 2022 and 3276 of 2022 and Memo

no.LC/991/JE(SK)/2023/659 dated 06.01.2023 issued by DTCP, Haryana, Chandigarh for transfer of license no.229 of 2007.

After having gone through order dated 22.05.2022 under execution, order dated 21.11.2024 of the Hon'ble Authority passed in "Raj Kumar Gupta vs M/s Ferrous Infrastructure Pvt. Ltd. and others" and Memo no. LC/991/JE(SK)/2023/659 dated 06.01.2023 of the office of Director of Town and Country Planning, Haryana, this Forum poses following questions to learned counsel for the decree holder to answer, to decide the maintainability of the application so made before this Forum;

Question 1:- How the orders dated 05.09.2024 and 21.11.2024 of Hon'ble Authority, entitle the present decree holder to seek impleadment of M/s Newstone Real Developers Pvt. Ltd., as a party in this execution more so when M/s Newstone Real Developers Pvt. Ltd. and even the present decree holder, were not party in the complaint order of which is under execution?

Question 2:- When the decree holder has a specific legal remedy to apply to the Hon'ble Authority to allow joining of third party in the proceedings, as it has done in similarly circumstanced cases decided vide orders dated 05.09.2024 and 21.11.2024, why the appropriate legal remedy has not been resorted to get the relief as prayed?

Question 3:- This Forum in execution in general can't implead a third party, which was not a party in the original proceedings and can join a third party only if

the said party applies for joining and satisfy the Executing Court that it has direct interest in the subject matter of the execution, how could this Forum in execution allow such party to be joined as a party in the present execution?

Question 4:- When the order dated 06.01.2023 of Director of Town and Country Planning, Haryana was executable within stipulated time of 90 days from the date of issuance of letter and even in its order 05.11.2024 Hon'ble Authority had held M/s Newstone and M/s Ferrous jointly liable to the allottees till the time license is not transferred, under what circumstances this Forum, if legally it can, implead M/s Newstone as a necessary party merely on the asking of the decree holder particularly when status of transfer is yet to be cleared after 90 days of said letter?

Question 5:- When as per status report of Resolutional Professional placed on record, CIRP proceedings have been initiated against the corporate debtor as per order dated 02.02.2023, how could this Forum proceed with entertaining the request so made ?

On request of learned counsel for decree holder, now the case is posted for 04.04.2025 for answering the queries so raised, on behalf of the decree holder.

In the meantime, simultaneously decree holder is directed to file bank account/property details of judgment debtor company for the purpose of the attachment duly supported by an affidavit in support thereof, so that only the



verified bank account/property of the judgment debtor is legally got attached in accordance with law, for recovery of the decretal amount. As per settled proposition of law laid down in City Bank, N.A v/s Indo-American Electrical Ltd. AIR 1981 Del 27, "as a general rule, territorial jurisdiction is a condition precedent to a Court executing a decree and neither the Court which passed the decree nor the Court to which it is sent for execution can execute it in respect of the property lying outside its territorial jurisdiction." However, such details must be duly supported by an affidavit of the decree holder to say that the details of the bank account/property sought to be attached legally stand in the name of the judgment debtor. Such directions have been passed to ensure that the property standing in the name of the judgement debtor is only got attached. It is further directed that the details of "Separate account" (ESCROW account), which is to be utilized for the construction of the project, should be avoided because legally its attachment order may cause prejudice to the other co-allottees of the project. In alternate, decree holder may move an application under Order 21 Rule 41 Civil Procedure Code or any other relevant provision provided under Civil Procedure Code, to get the execution satisfied at the earliest.

  
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**MAJOR PHALIT SHARMA**  
ADSJ(Retd.)  
**ADJUDICATING OFFICER**

23.12.2024