



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER

EXECUTION NO. 1156 OF 2021

IN

COMPLAINT NO.575 OF 2020

Daljit Singh Dahiya

....Complainant/Decree Holder

VERSUS

Parsvnath Developers Ltd.

....Respondent /Judgment Debtor

Date of Hearing: 14.11.2024

Hearing: 19th

Present: Mr. R.P. Dangi, Advocate for the decree holder

Ms. Rupali S.Verma Adv., for the judgment debtor through
video conferencing

ORDER

Today, the case is fixed for awaiting report of Bank Manager, Axis Bank, Shahdara, New Delhi, as to whether or not bank account of the judgment debtor i.e Parsvnath Developers Limited with it is attached for the recovery of decretal amount.

2. No report to this effect has been received from the Bank Manager.

14/11/2024


3. Learned counsel for judgment debtor has stated that penalty imposed vide order dated 30.11.2022 under Section 63 of RERA Act,2016 has been deposited in the account of Authority.
4. At this stage, this court put a legal query to learned counsel for the decree holder as to under what provision of law, this court at Panchkula, can attach the property of the judgment debtor whether movable or immovable, situated outside its territorial jurisdiction i.e Delhi ?
5. To the best of its knowledge, this Forum in execution while deriving powers under Section 40 of the Act,2016 and Rules 27 of Act,2017, is competent to get an order executed like a civil decree, wherein property subject to execution is situated within its jurisdiction as territorial jurisdiction is condition precedent for execution and if the execution pertains to a property including movable or immovable, situated outside its jurisdiction, the only remedy with the decree holder is to move an application under Section 39(1) of Civil Procedure Code, to get the decree for execution transferred to another Court of competent jurisdiction to enjoy the fruits of the relief given in a legalized manner, or, even under Section 39(2) of Civil Procedure Code, the Court can act suo-motu also to transfer . Hence, learned counsel for the decree holder on his request given time to satisfy this Forum that account of judgment debtor at Delhi could legally be attached by this Forum or in alternate, he is given another opportunity to submit verified details of movable or immovable property of judgment debtor situated

with in the jurisdiction of this Forum, within one month from today, to get the same attached for recovery of the decretal amount. However, such details must be duly supported by an affidavit of the decree holder to say that the details of the property sought to be attached legally stand in the name of judgment debtor. As per settled proposition of law laid down in City Bank, N.A v/s Indo-American Electrical Ltd. AIR 1981Del 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.”

6. Now, to come up on 06.02.2025 for the purpose described above. Decree holder is directed to submit verified details of movable or immovable property/bank account of judgment debtor situated within the jurisdiction of this forum, within 15 days from today, to get the same attached 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 judgment debtor. Such directions have been passed to ensure that

the property standing in the name of judgment 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.

14.11.2024


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MAJOR PHALIT SHARMA
ADSJ(Retd.)
ADJUDICATING OFFICER