

Ex No.88/08

New No.1625/19

22.07.2020

The present matter has been taken up for hearing by way of video conferencing on account of lockdown due to Covid 19.

Present : None for decree holders

Mr. Ram Kumar, Ld. Counsel for judgment debtor no. 1

Mr. Sanjay Poddar, Ld. Senior Advocate with Ms. Pooja Kalra, Ld.

Counsels for judgment debtor no.2

Mr. Ram Singh Parte from Ward 52(4), New Delhi, Income Tax Department

Mr. Manmohan Singh Bisht from Ward 4(2), Income Tax Department

Ms. Jayati Jaidka, Local Commissioner

1. The aforementioned officers from the Income Tax Department have sent e-mails stating that the sought record for the period from 11.11.1999 is not available since these are old records. It is stated that ascertaining such old record is not possible. Even though, the aforementioned ITO from Ward 52(4) has stated that ascertaining such old record is not possible, at the same time he has stated that efforts are being made to trace out the requisite old record.
2. The record is perused. The present enquiry is being conducting on the directions of Hon'ble Supreme Court. For the purpose of arriving at a just conclusion in the enquiry, the Income Tax Returns filed by the assesseees Mr. Jai Singh (having PAN Card No. ABAPS9517K) and Mr. Virendra Singh (having PAN Card No.AISPS7856A) for the period from 11.11.1999 till 27.12.2019 were sought from the Income Tax Department. Thrice directions have been given to the Principle Chief



Commissioner vide orders dated 10.07.2020, 14.07.2020 and 15.07.2020 to produce the record for this period. Only the record of recent years has been provided. It has been stated on behalf of the Principle Chief Commissioner that tracing the old record is not possible. The Court is unable to understand this contention. If the old record exists and has not been weeded out, it must be provided to the Court. The Income Tax Department is maintaining even the old records at the expense of the tax payers and should provide the same whenever required by any authority.

3. Issue show cause notice to the Principle Chief Commissioner, Income Tax, Delhi directing him to disclose why fine be not imposed upon him for not complying with the order of the Court and for recovery of which, why his property be not attached.
4. At around 1:15 pm today an e-mail has been received from D.S. Khatri, Ld. Counsel for the decree holders. The following is the e-mail sent by him:-

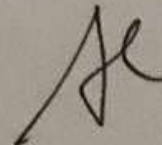
"Respected Sir,

Jai Singh has been tested positive for COVID-19 and is hospitalised in Medanta Medicity.

Request time on account of the same.

Regards,
D. S. KHATRI"

5. Ld. Senior Advocate appearing on behalf of judgment debtor no. 2 submits that the decree holders have deliberately stop appearing before the Court so as to avoid compliance with the directions given by the Court. He submits that the alleged illness of Mr. Jai Singh is of no consequence since even earlier he was unwell and had appointed Mr. Vaibhav Singh, his relative as his authorized representative to pursue



the present case. He submits that the decree holders come to the court as per their own convenience and whenever it does not suit them, they stop appearing. He submits that had it not been for the directions of the Hon'ble Supreme Court that enquiry in the present case is to be conducted into the quantum of mesne profits, this Court could have dismissed the application of the decree holders for non-prosecution.

6. On the last two dates of hearings, this Court has already recorded the conduct of the decree holders. It has already been observed that Mr. Jai Singh has been unwell throughout the proceedings being carried out by the Court since the Covid-19 pandemic started and therefore, the decree holders were pursuing their case through their attorney Mr. Vaibhav Singh. Since Mr. Jai Singh was in any case not prosecuting the present case, his new ailment is no ground for seeking an adjournment and for not complying with the repeated directions given by the Court. As such, this Court deems it fit to continue with the enquiry so as to honour the directions of the Hon'ble Supreme Court that the enquiry has to be concluded in a time bound manner and that no adjournment is to be granted.
7. The report of the Local Commissioner has been perused. Information has been received about tenancies in various parts of plots no. 1 and 3. These parts of the two plots have been given numbers by the Local Commissioner for the purpose of identification. The Court is of the opinion that more efforts ought to be made to ascertain the details of tenancies in shop numbers 4, 5, 16, 17, 47 and 70, so that the Court is able to get the rate of rent in these premises. The area of these shops has not been disclosed by the occupants to the Local Commissioner. If the area of shop numbers 4,5, 47 and 70 can be ascertained, the Court will be able to determine the rate of rent at which these shops were rented out and the said rates can be utilized for the purpose of

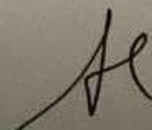


determining the mesne profits of the adjacent plot no. 2. The area of these shops determined on the basis of the measurements provided in the site plan prepared by the Architect and filed by the Local Commissioner may be disputed by the parties since the area of plots number 1 and 3 as per the Architect is different from the area of these plots disclosed by the decree holders.

8. Ld. Senior Advocate appearing on behalf of the judgment debtor no. 2 seeks direction from the Court to the occupants of the aforementioned shops to permit an official of judgment debtor no. 2 to enter the shops for the purpose of measuring it.
9. The Court does not deem it fit to give the sought direction at this stage and prior to exploring other ways of determining the area given on rent in the aforementioned shops.
10. Since the decree holders are not coming forward and disclosing details of the tenancies in these shops, the Court deems it fit to make further efforts to obtain the lease deeds and other information pertaining to the tenancies in these shops.
11. Ld. Senior Advocate on behalf of judgment debtor no. 2 submits that the judgment debtor no. 2 will positively file all registered lease deeds of plots no. 1 and 3, by the next date of hearing.
12. Order XVI Rule 6 of Code of Civil Procedure provides that any person may be summoned to produce a document. The Court deems it fit to issue summons to the occupants of the aforementioned shops with direction to produce all documents which explain their possession/tenancies in the shops. Let summons be issued for this purpose.

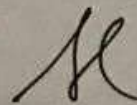


13. Due to the Covid-19 pandemic, the Hon'ble High Court has suspended services of notices and summons physically. The undersigned has been informed by the Ahlmad of this Court that the Nazarat Branch is also not accepting any process to be served physically. Order 16 Rule 7A of Code of Civil Procedure provides that the Court may deliver summons to a party for effecting service. The decree holders have stopped appearing before the Court and are also not complying with the directions of the Court. But since the Court still has to conduct the enquiry as directed by the Hon'ble Supreme Court, this Court deems it fit to direct the judgment debtor no. 2 to effect service of summons upon the occupants of the aforementioned shops.
14. The Ahlmad is directed to e-mail the summons to be served upon the occupants of the shops to the judgment debtor no. 2. The judgment debtor no. 2 is directed to effect service of summons upon the occupants of the aforementioned shops and submit its report to the Court by e-mailing it, prior to the next date of hearing. Endorsement be made on the processes that the shop numbers mentioned on the processes are the numbers given by the Local Commissioner in the presence of the officials of the judgment debtor no. 2, only for the purpose of identification. It shall therefore be appropriate that an official of judgment debtor no. 2 who was present during the execution of the commission be directed to serve the summons, since that official will be better placed to identify the shop at which services to be effected.
15. After the Court has received all details of tenancies in the aforementioned shops, the Court will proceed further to calculate the rate of rent in these shops. Thereafter, the Court will seek report of a Structural Engineer on the construction of the shops of which the rate of rent is available with the Court so that it can be compared with the



construction in plot no. 2. Depending on the difference in construction in the shops and plot no. 2, the rate of rent of the shops can be utilized to determine the mesne profits of plot no. 2.

16. The Local Commissioner appointed by this Court is discharged for now. She need not to appear on the subsequent dates of hearings unless directed by the Court.
17. This Court had enlisted certain queries in its orders dated 17.06.2020 and 02.07.2020 (para 19). Arguments of the Ld. Counsels for the judgment debtors on these queries have been heard today. Arguments of the Ld. Counsel for the decree holders had been heard previously. Written arguments on these Court queries have been filed twice by the decree holders. Reply has been filed by the judgment debtor no. 2, which has been adopted by the judgment debtor no. 1. In the e-mail dated 15.07.2020 sent by the Ld. Counsels of the decree holders to the Court, it has been stated that the decree holders have nothing further to add. As such, order on the Court queries is reserved.
18. To come up for pronouncement of order on the Court queries and for further proceedings on 28.07.2020 at 02:00 PM.
19. The Ahlmad is directed to immediately send copy of this order and details required for joining court proceedings through video conference on the next date of hearing, to the learned Counsels for the parties. The details be also mentioned on the notice being sent to the Principle Chief Commissioner of Income Tax.



(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
22.07.2020

**Mr. Harish Mohan Ahuja & Anr.
Vs.
M/s Khurana Garments & Anr.**

E. No.63/20

New No.2102/20

22.07.2020

The present matter has been taken up for hearing by way of video conferencing on account of lockdown due to Covid 19.

Present : Mr. Hitesh Ahuja, Ld. Counsel for the petitioners alongwith petitioner no. 1 in person.

Ld. Counsel for the petitioners submits that he has mobile number of the respondents on which summons can be served through WhatsApp.

Arguments are heard and the record is perused.

On filing of PF and mobile number of the respondents within one week from today, issue summons under the Third Schedule of the Delhi Rent Control Act for it to be served upon the respondents through WhatsApp by the Ahlmad of this Court and the Nazarat Branch.

Petitioners are directed to file the hardcopy of the petition, accompanying documents and proper affidavit within four weeks from today. Ahlmad shall file his report on service of summons before the next date of hearing.

To come up on 31.08.2020.

**SHIRISH
AGGARWAL**
(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
22.07.2020

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SHIRISH AGGARWAL
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