

**IN THE COURT OF SHRI RAJ KUMAR: ADDITIONAL DISTRICT
JUDGE, WEST, DELHI**

Ex. No.1120/2018

Cusum Arora @ Kusum Sethi DH

VERSUS

Raj Kumar Mehta JD

ORDER

1. Vide this order, I shall dispose of an application filed by the DH in execution petition bearing no.3413/2018 titled as Cusum Arora @ Kusum Sethi vs. Raj Kumar Mehta received on the email readermact01west@gmail.com of this Court.

2. The present application is being taken up for disposal online on Cisco Webex as on 05.06.2020 at 3 pm in the presence of Ms. Dipika Saxena, Ld. Counsel for the DH.

3. The said application has been filed by the DH in the execution petition bearing no.1120/2018 for release of the amount of Rs.2,33,334/- which was deposited by the JD in RFA No.1038/2019 in the Hon'ble High Court of Delhi. The DH, in the said application, has stated that this Court had earlier passed an order for release of the said amount but the amount of Rs.2,33,334/- has not been received by her till date. It has been further stated by the DH that she is suffering from Cancer and that she is in urgent need of money.

4. It becomes pertinent to mention here that the DH had earlier filed an application to the same effect which was disposed of vide detailed orders dated 17.03.2020 passed by this Court. The orders dated 17.03.2020 passed by this Court read as under:-

“Ex no. 1120/18

17.03.2020

Present : DH in person.

File has been taken up on an application filed by the DH for pre-ponement of the date of hearing.

The DH has also filed on record two more applications, one is for release of the DD in favour of DH and the other application is for compliance of the orders dated 16.03.2019.

Infact, the facts germane to the filing of the abovesaid three applications filed by the DH necessarily revolve around the orders dated 03.03.2020 passed by the Hon'ble High Court of Delhi in RFA no. 1038/2019. A copy of the orders dated 03.03.2020 passed in the abovesaid RFA no. 1038/2019 has been annexed by the DH along with the applications filed by her on record.

It has to be seen that the Hon'ble High Court of Delhi on 06.12.2019, the copy of which is also annexed along with the said application passed the following orders in the abovesaid RFA no. 1038/2019:-

“This appeal challenges the judgment dated 27.08.2019 whereby the suit under Order XXXVII CPC filed by the plaintiff for recovery of Rs. 7,00,000/- with interest at the rate of 9% per annum from the date of filing of suit till the date of realization was decreed in favour of the plaintiff.

Considering the medical and financial condition of the appellant herein, on depositing of 1/3rd of the decretal amount with the Registrar General of this court within eight weeks from today, operation of the impugned judgment and decree shall remain stayed till further orders

and in the meanwhile issue notice to the respondent through all modes returnable on 23.04.2020. The amount so deposited be kept in an interest bearing FDR, initially for a period of one year but with an automatic renewal clause.”

Thereafter, again on 24.02.2020, the Hon'ble High Court of Delhi passed the following orders in the abovesaid RFA:-

“CM APPL. no. 7009/2020

This application is for condonation of delay of 9 days in deposit of DD of Rs. 2,33,334/- which comprises of 1/3rd of the decretal amount.

In view of the submissions so made the delay stands condoned. The amount be deposited with the Registrar General of this court and be kept into an interest bearing FDR, initially for a period of one year but with an automatic renewal clause. The application stands disposed of.

CM APPL. No. 7008/2020

This application is for early hearing filed by the respondent. For the reasons mentioned in the application, the early hearing is allowed. The application stands disposed of.

RFA no. 1038/2019

List on 03.03.2020. The date viz 23.04.2020 given earlier stands cancelled.”

Thereafter, ultimately on 03.03.2020, the abovesaid RFA was dismissed by the Hon'ble High Court of Delhi and in para no.8 of the said orders dated 03.03.2020, it has been observed as under:-

“The appeal thus, has no merit and is accordingly dismissed. The pending application, if any, also stands dismissed. The amount deposited herein shall be at the discretion of the learned Executing Court. No order as to costs. Order dasti.”

Perusal of the abovesaid orders passed by the Hon'ble High Court of Delhi reveals that the amount of Rs. 2,33,334/- is lying deposited in the Hon'ble High Court of Delhi with the Hon'ble Registrar General, has been left to the discretion of the Executing court by the Hon'ble High

Court of Delhi.

Now, the DH has prayed in the application that the abovesaid Demand draft be released in favour of the applicant/DH.

As such, a request letter be sent to Hon'ble Registrar General of the Hon'ble High Court of Delhi with a request to transfer the amount of Rs. 2,33,334/- deposited by the JD in the abovesaid RFA to this court so that same may be released in favour of DH.

DH, in one of the applications has prayed that Warrants of arrest as directed earlier against the JD on 16.03.2020 be again directed to be issued.

Since RFA has been dismissed and since the amount has not been deposited fully by the JD, Warrants of arrest against the JD in terms of the orders dated 16.03.2019 are again directed to be issued for the next date.

In all the three applications filed by the DH, DH has stated that she is suffering from cancer and that she is in urgent need of money. The applications filed by the DH stands disposed off accordingly. As such, the present execution petition shall be taken up on 20.04.2020. The date already fixed ie 15.05.2020 stands cancelled.

*(Raj Kumar)
Judge : MACT-01(West)
Delhi/17.03.2020"*

5. A perusal of the aforesaid orders dated 17.03.2020 passed by this Court reveals that this Court has already sent a request letter to the Hon'ble Registrar General of the Hon'ble High Court of Delhi with the request to transfer the amount of Rs.2,33,334/- deposited by the JD in RFA no. 1038/2019 which was disposed of by the Hon'ble High Court of Delhi on 03.03.2020 to this court so that the same may be released in favour of the DH.

6. Nazir of this Court has already submitted his report to the effect that a request letter has already been sent to the Hon'ble Registrar General of the Hon'ble High Court of Delhi on 20.03.2020. Nazir has again told that this Court has not received the amount of Rs.2,33,334/- from the Hon'ble High Court of Delhi till date. It is a matter of common knowledge that on account of the highly contagious disease known as Covid-19, there has been continuous suspension of the court functioning from time to time. As such, the present application is again being disposed of with the request to the Hon'ble Registrar General to transfer the amount of Rs.2,33,334/- deposited by the JD in RFA bearing no.1038/2019 to this Court so that the same may be released in favour of the DH at the earliest. The application accordingly stands disposed off.

7. A copy of this order be sent by Sh. Rahul, Personal Assistant to the Hon'ble Registrar General of the Hon'ble High Court of Delhi by email by way of a request letter.

Now, to come up on the date fixed.

**Announced on
5th of June, 2020**

**(RAJ KUMAR)
ADJ (WEST)
Tis Hazari Courts, Delhi**