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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 17th March, 2025***
+ **CM(M) 499/2025 & CM APPL. 15427-15429/2025**
SIDDHARTH SOOD

.....Petitioner

Through: Mr. Samrat Nigam, Senior Advocate
with Mr. Rishi Sood and Ms. Arpita
Rawat, Advocates.

versus

MUNISH KUMAR AGGARWAL

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner Mr. Siddharth Sood had filed an application under Order XXI Rule 58 read with section 151 CPC in Execution Petition i.e. EX. (COMM) 340/2023 and is aggrieved by dismissal of his such application on 05.03.2025.
2. I have heard learned Senior Counsel at length.
3. Admittedly, Mr. Munish Kumar Aggarwal (respondent herein) had lodged a claim against the parents of the Objector (petitioner herein).
4. Learned Sole Arbitrator had been appointed in terms of order dated 04.06.2022 passed by this Court on the basis of application moved under Section 11 of Arbitration and Conciliation Act, 1996.
5. The Award was passed by learned Sole Arbitrator on 16.01.2023 whereby the claimant was held entitled to sum of Rs. 34,71,125 /- (principal



amount) along with interest.

6. Pursuant to such Award, the above Execution Petition was filed and during its pendency, Mr. Siddharth Sood, son of the judgment debtors had filed the above said application, praying therein that the property bearing No. H-39 A & B, Kirti Nagar, New Delhi-110015 be released from the attachment.

7. It is contended that the above said property was lying mortgaged with the South Indian Bank and was attached by invoking provision of *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* (in short “SARFAESI Act”) and the pending dues of the borrowers i.e. parents of the Objector were cleared and, accordingly, the property was released from the attachment by said bank.

8. It is also submitted that thereafter a *Gift Deed* was also executed by the parents of the objector in favour of their son (petitioner herein) and by virtue of such *Gift Deed* dated 20.12.2022, the objector has become the owner of the above said property, in his own independent and substantive right and, therefore, such property could not have been attached.

9. Before coming to order dated 05.03.2025, it will be useful to see order dated 31.05.2024 passed by learned Executing Court. The decree holder had placed on record certain documents showing that said property was earlier owned by the judgment debtors, which they had transferred in favour of their said son by virtue of a *Gift Deed* and, therefore, there was a request for issuance of *warrants of attachment* with respect to the above said property.

10. Learned Executing Court *vide* order dated 31.05.2024 in terms of provisions contained under Order XXI Rule 54 CPC, prohibited judgment debtors and their son Mr. Siddharth Sood from transferring the aforesaid



property in any way and such order of attachment was also directed to be proclaimed through *beat of drums*.

11. Admittedly, such order remains operational even as on date and it is in the above backdrop of the factual matrix that said application was moved by the objector under Order XXI Rule 58 seeking release of property.

12. I have seen the impugned order and the relevant portion reads as under:-

“At this stage, learned counsel for JDs submits that he is also representing Objector Siddharth Sood. It is submitted that application under Order XXI rule 58 read with Sec. 151 CPC filed by the Objector is pending disposal to release the attached property. It is submitted that during pendency of proceedings before learned Arbitrator, both the judgment debtors had transferred the rights of the attached property to their son Sidctharth Sood (Objector) by virtue of Gift Deed dated 29.12.2022. Learned counsel for DH submits that judgment debtors had deliberately transferred the attached property to their son Siddharth Sood to evade the payment of Award amount.

Learned counsel for JDs submits that initially JDs had mortgaged the aforesaid property as collateral security with South Indian Bank Limited. Subsequently, Objector made the payment from his own funds to South Indian Bank and on receipt of payment, JDs were discharged as guarantors.

Submissions heard.

I am not convinced with the arguments of learned counsel for IDs and Objectors. It is evident from the documents on record that JDs had transferred the rights of said property to Objector Siddharth Sood by virtue of Gift Deed at a much belated stage i.e. after the final arguments in arbitration proceedings were heard. Hence, at this stage, I am not inclined to release the attached property. Accordingly, application is dismissed.”

13. This Court has also gone through the communication dated 17.12.2022 sent by the objector to the above said Bank whereby the objector had informed that he himself had made complete payment of Rs. 1,95,00,000/- against the release of above said property which was registered in the name of



his parents. He also claimed that the above payment had been made from his personal savings account. Pursuant to such payment made by the objector, the bank also certified that the above said payment had been made towards the release of the above said property.

14. Admittedly, when the arbitration proceedings were invoked by moving application under Section 11 of Arbitration and Conciliation Act, there was no prohibition and embargo on any kind of attachment with respect to the above said property. Admittedly, even when the Award was passed on 16.01.2023, there was no such prohibition or attachment but the Court cannot be unmindful of attendant facts and the relationship between judgement debtors and objector.

15. The objector is the son of the judgment debtors and there is an apparent attempt to frustrate the rights of decree holder.

16. The manner in which the gift deed has been executed by the parents clearly suggests that the sole objective was to somehow thwart and defeat the decree which has, reportedly, attained finality.

17. Learned Executing Court also observed that the documents on record clearly indicate that the judgment debtors had transferred their rights with respect to the above property, after the final arguments were heard in the arbitration proceedings.

18. The manner in which the entire payment has been made by the objector, *albeit*, from his personal account and the manner in which, eventually, gift deed has been executed by the judgement debtors in favour of their son is not, at all, suggestive of any *bona fide* conduct on part of the judgment debtors and their son.



19. This Court is also conscious of the limited scope of appreciation and judicial interference in such type of matters, while entertaining any petition under Article 227 of the Constitution of India.

20. As per, *Puri Investments Versus Young Friends and Co. and Others*: 2022 SCC OnLine SC 283, the duty of the supervisory Court is to interdict if it finds that the findings are perverse i.e. (i) Erroneous on account of non-consideration of material evidence, or (ii) Being conclusions which are contrary to the evidence, or (iii) Based on inferences that are impermissible in law. Reference be also made to *Estralla Rubber v. Dass Estate (P) Ltd.*: (2001) 8 SCC 97; *Garment Craft vs. Prakash Chand Goel*: (2022) 4 SCC 181 and *Ibrat Faizan v. Omaxe Buildhome Private Limited*: (2023) 11 SCC 594.

21. Keeping in mind the overall facts and circumstance, this Court does not find any reason to interfere with the impugned order.

22. The present petition along with pending applications, if any, stand dismissed in *limine*.

(MANOJ JAIN)
JUDGE

MARCH 17, 2025/sw/SS