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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P. (COMM) 495/2018 and I.A. 16836/2018, 16837/2018,**
16839/2018

INTERNATIONAL AVENUE Petitioner

Through: Mr. Pallav Saxena and Mr. Nipun
Sharma, Advocates (M:
9873989878).

versus

DELHI TRANSPORT CORPORATION Respondent

Through: Ms. Avnish Ahlawat with Mr. N. K.
Singh and Mr. Mohnish Sehrawat,
Advocates (M: 9711836350).

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WITH

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OMP (ENF.) (COMM.) 268/2018

DELHI TRANSPORT CORPORATION Decree Holder

Through: Ms. Avnish Ahlawat with Mr. N. K.
Singh and Mr. Mohnish Sehrawat,
Advocates (M: 9711836350).

versus

M/S INTERNATIONAL AVENUES, Judgement Debtor

Through: Mr. Pallav Saxena and Mr. Nipun
Sharma, Advocates (M:
9873989878).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

% **26.04.2024**

1. This hearing has been done through hybrid mode.



2. ***O.M.P. (COMM) 495/2018*** has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (*hereinafter, '1996 Act'*) by the Judgment Debtor-International Avenue, assailing the arbitral award dated 23rd September, 2017. On the other hand, ***OMP (ENF.) (COMM.) 268/2018*** has been filed under Section 36 of the 1996 Act by the Decree Holder-Delhi Transport Corporation (*hereinafter, 'DTC'*) seeking enforcement of award dated 23rd September, 2017.

3. In ***OMP (ENF.) (COMM.) 268/2018***, vide order dated 6th February, 2020, this Court directed as under: -

“6. However, keeping in view the fact that the amount payable under the award was over 15 crores in 2018 itself, when the present petition came to be filed, the JD is directed to deposit a sum of Rs.5 crores with the Registrar General of this Court within a period of 12 weeks. The JD will also remain present in court on the next date.”

4. Again on 4th August, 2022 in ***OMP (ENF.) (COMM.) 268/2018***, the Court has directed as under:-

“4. The judgment debtor is directed to deposit the sum of Rs.5,00,00,000/- with the Registrar General of this Court within six weeks from today, without prejudice to the rights and contentions of the parties. The judgment debtor is also directed to remain personally present before this Court on the next date of hearing.”

5. The Court repeatedly took notice of the fact that there was complete non-compliance, and recorded the statement of the Judgment Debtor, as set out in the order dated 22nd November 2022. There were some issues with respect to the calculations. However, according to the Judgment Debtor, to date, there has been no compliance of the three orders that have been passed



by this Court. The relevant portion of the said order dated 22nd November, 2022, is set out below:

“3. As stated above, the direction for deposit was made as far back as 06.02.2020. The Judgment debtor's request to revisit that order has also been rejected by the order dated 04.08.2022. As noted in the order dated 04.08.2022, the deposit of Rs. 5,00,00,000/- would cover only a portion of the amount awarded as computed until 2018. Mr. Saxena seeks to advance certain contentions relating to payment of amount of approximately Rs. 3,00,00,000/- by the judgment debtor to the decree holder prior to the award. This ground has also been dealt with in the last order of the Court.”

4. Consequently, notice is issued to the judgment debtor, to show cause as to why he should not be detained in civil prison in execution of the award in question. The judgment debtor is directed to file an affidavit within four weeks.”

6. Submissions were made by the Id. Senior Counsel for the Judgment Debtor today, stating that no amount has been deposited because some payments required adjustments. Upon a specific query by this Court regarding the amount that the Judgment Debtor admits to being due, no definitive amount was provided. It is also submitted that an application was filed yesterday, i.e., on 25th April 2024, detailing certain amounts. No application has been listed before the Court today. In addition, the Decree-holder has not been served with any application.

7. Accordingly, this would *prima facie* constitute contempt. In view of the fact that the directions in the enforcement petition have repeatedly not been complied with by the Judgment Debtor, the Court opines that the



petition under Section 34 would no longer be maintainable due to this non-compliance.

8. Accordingly, last and final opportunity is granted to deposit a sum of Rs.5 crore within one week. If the said amount is not deposited, the petition under Section 34 shall stand automatically dismissed.

9. Mr. Ashit Datt for M/s International Avenue (Judgement Debtor) shall remain present in Court physically on the next date of hearing.

10. No further adjournments shall be granted in this matter.

11. List on 14th August, 2024.

PRATHIBA M. SINGH, J

APRIL 26, 2024

mr/dn