

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Pronounced on: 14.01.2011

+ **EX.P. 189/2007**

CAR-O-LINER AB**DECREE HOLDER**

- **versus** -

TTC LASER MACHINE LTD.**JUDGEMENT DEBTOR**

Advocates who appeared in this case:

For the Plaintiff: Mr Rajeev Kumar, Adv.

For the Defendant: Dr. Bipin K. Dwivedi, Adv. for JD
Mr Kameshwar Singh, Adv. for
Objector Kulwant Singh, Adv.
Mr Sandeep Prabhakar and Ms
Prerna Mehta, Adv. for Objector
Deepak Sharma

CORAM:-

HON'BLE MR JUSTICE V.K. JAIN

- | | |
|--|----|
| 1. Whether Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | No |
| 3. Whether the judgment should be reported in Digest? | No |

V.K. JAIN, J. (ORAL)

E.A. No. 120/2008

1. These are the Objections filed by Mr Deepak Sharma to attachment of House No. N-30, Panchsheel Park, New Delhi.

2. A decree for recovery of Rs 63,97,128.32/- with costs and pendente lite and future interest at the rate of 5.25% per annum was passed by this Court in favour of the Decree Holder and against TTC Laser Machine Pvt. Ltd. on 08th February, 2007. Since the decree was passed only against TTC Laser Machine Pvt. Ltd., the property, belonging to the company alone, could have been attached in execution of the decree.

3. The Decree Holder filed 543/2007 seeking attachment of a number of properties, including House No. N-30, Panchsheel Park, New Delhi, alleging therein that those properties belonged to the Judgment Debtor. No document was, however, filed alongwith this application to show that the aforesaid house was owned wither wholly or partly by the Judgment Debtor TTC Laser Machine Pvt. Ltd.

4. The Objector has placed on record a copy of the perpetual sub-lease executed by President of India through the Panch Shila Cooperative House Building Society Ltd. in respect of Plot No. N-30, Panchsheel Park, New Delhi. The perpetual sub-lease was executed in the sole name of Shri Deen Dayal Sharma. The Objector Deepak Sharma is the son of Shri Deen Dayal Sharma. His case is that vide Will

dated 07th December, 2000, this property was bequeathed to him by Shri Deen Dayal Sharma, who expired on 13th December, 2000. A copy of the Death Certificate as also a copy of the Will have been placed on record by the Objector. The aforesaid property was mutated by DDA in the name of Shri Deepak Sharma vide letter dated 26th March, 2001, a copy of which has been placed on record. Mutation of the aforesaid property in favour of defendant No.2 was allowed by MCD vide order dated 31st March, 2001 passed by Shri R.K. Sharma, Deputy A&C, South Zone and the order passed by him has been placed on record by the Object.

5. Thus, the documents filed by the Objector show that House No. N-30, Panchsheel Park was owned by his father Shri Deen Dayal Sharma and after his death, the property devolved on him under a Will executed by his father in his favour. Even if the Will set up by the Objector is excluded from consideration, the property would devolve on the legal heirs of late Shri Deen Dayal Sharma on his death. But, in no case, JD-Company acquired any right, title or interest in this property.

6. The Decree Holder has not placed on record any document which would suggest even remotely that the

aforsaid property was owned by Judgment Debtor-Company. The contention of the learned Decree Holder is that since Shri Deepak Sharma is a director as also a shareholder of JD- Company, the property could be attached in execution of the decree passed by this Court. The contention, in my view, is wholly misconceived. No decree has been passed by this Court against Shri Deepak Sharma. The decree is only against the company. A company being a distinct legal entity, any property, belonging to its director/shareholders, cannot be attached in execution of the decree passed against the Company. It is only the properties of the company which can be attached and sold for realization of the money payable by the company. Also, this is not the case of the Decree Holder that this property was acquired from the funds of the Company or by the Company in the name of late Shri Deen Dayal Sharma.

7. For the reasons given in the preceding paragraphs, attachment of House No. N-30, Panchsheel Park, New Delhi, is hereby revoked. The Objections stand allowed accordingly.

EA No. 361/2009

1. These are the Objections filed by Shri Kulwant Singh Grover to attachment of Property No. 12-A/1, Near Telephone Exchange, Savitri Nagar, New Delhi on the ground that he is the owner of the aforesaid property which is in his possession and which has no connection with Judgment Debtor-Company.

2. Property No. 12-A/1 was attached by this Court in EA No. 543/2007 filed by the Decree Holder, wherein it was alleged that the properties, mentioned in the application, including Property No. 12-A/1, First Floor, Near Telephone Exchange, Savitri Nagar, was owned by Judgment Debtor-Company. No document was, however, placed on record by the Decree Holder to indicate that this property was owned by Judgment Debtor-Company. The Objector has placed on record a copy of the Sale Deed dated 02nd November, 2001 executed by Smt. Inder Grover, W/o Shri Jaswant Singh in his favour. Vide this Sale Deed, Property No. 12-A/1 bearing Khasra No.548/135, measuring 80 Sq. Yards, situated in the Lal Dora Abadi of Village Sheikh Sarai, now known as Savitri Nagar was sold by Smt. Inder Grover to the Objector Kulwant Singh. The aforesaid property was let out by the

Objector through his attorney Shri Jaswant Singh to Judgment Debtor-Company vide Rent Agreement dated 11th May, 2004. The property was vacated by the Judgment Debtor and possession was handed over to the Objector on 30th November, 2005, as is indicated in the letter dated 01st November, 2005, written by Judgment Debtor-Company to Shri Jaswant Singh, Attorney of the Objector.

3. The documents filed by the Objector Kulwant Singh show that the aforesaid property is owned exclusively by him and the Judgment Debtor-Company was only a tenant in it. The case of the Objector is that the property was vacated by Judgment Debtor on 30th November, 2005. However, assuming that the premises was not vacated by Judgment Debtor-Company and continues to be in its possession that, by itself, does not confer any ownership right in the property on the Judgment Debtor-Company and consequently, this property could not have been attached in execution of the decree passed against Judgment Debtor-Company. As noted earlier, the Decree Holder has not placed any document on record to indicate that Property No.12-A/1, Savitri Nagar, New Delhi was owned by Judgment Debtor-Company either wholly or partly. Since

the property was owned exclusively by the Objector Kulwant Singh, it could not have been attached in execution of the decree passed against Judgment Debtor-Company. The tenancy right in this property, assuming that they continue to subsist, is not capable of attachment. The attachment of Property No. 12-A/1 is therefore revoked. The Objections filed by Kulwant Singh also stand allowed accordingly.

EX.P. 189/2007

Since the learned counsel for the Decree Holder seeks some time to ascertain particulars of other property of Judgment Debtor-Company, list on 12th May, 2011.

(V.K. JAIN)
JUDGE

JANUARY 14, 2011
BG