

Himani Walia vs Hemant Walia & Ors on 7 February, 2022

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ EX.P.26/2019

HIMANI WALIA

..... Petitioner

Through: Dr. Chandrashekhar, Advocate along
with Petitioner in person.

versus

HEMANT WALIA & ORS.

..... Respondents

Through:

Ms. Zeba Khair, Advocate for JD-1
along with JD-1 in person.

Mr. Ashish Rana, Advocate for
HPCL.

Mr. R. Jawahar Lal & Mr. Anuj Garg,
Advocate for JD-2.

Mr. Arun K. Sharma, Advocate for
JD-3.

Mr. Jagdeep Singh Bakshi, Advocate
for intervener along with Dr. S. N.
Bansal, Valuer.

CORAM:

JUSTICE PRATHIBA M. SINGH
ORDER

% 07.02.2022

1. This hearing has been done through video conferencing. EX.APPL.(OS) 955/2021 & EX.APPL.(OS) 30/2022

2. The present applications for intervention have been filed by the Applicant/Valuer-Dr. S.N. Bansal (hereinafter "Valuer") seeking a direction to the Respondents to release the lump sum fee of Rs.5 lakhs in favour of the Applicant, in compliance of order dated 30th May, 2019. The relevant paragraph of the said order reads as under:

"Mr. Bansal is present in Court. He is agreeable to issue the authenticity certificates

for a lumpsum fees of Rs. 5 Lakhs and subject to the payment of Rs. 5 Lakhs as lumpsum, authenticity certificates be issued by Mr. Bansal for all the paintings/antiques to the respective parties within two weeks. The said amount shall be paid from Joint Expense Account No. 1. No further amounts shall be payable to Mr. Bansal".

3. A cursory perusal of the authenticity certificates issued by Dr. Bansal and placed on record shows that there is no opinion given by him as to whether the paintings and the artworks which have been inspected by him are authentic and original, and if so, who are the artists, what would be the monetary value as per the current market rate.

4. The Valuer is expected to give a detailed description of each of the artworks and paintings as to whether they are authentic, who is the artist, the vintage of the said paintings and artworks, as also the monetary value as per the current market rate. It is only thereafter that this Court can consider the payment of any fees to the Valuer.

5. Mr. Bakshi, ld. Counsel appearing on behalf of the Valuer, submits that he would look into the authenticity certificates issued as also the valuation which has been filed by him. He has made submissions accordingly.

6. Since the Valuer has been allowed to intervene and make his submissions before this Court, the intervention application is no longer to be adjudicated. Insofar as the payment is concerned, let a revised valuation report be placed on record. Thereafter, the payment of fee of the Valuer shall be considered by this Court.

7. The parties who are in possession of the paintings and artworks shall give an inspection of the same to the Valuer, upon his request.

8. Applications are disposed of in the above terms. Ex. APPL. (OS) 157/2022

9. This is an application filed on behalf of the Judgment Debtor No.1- Mr. Hemant Walia seeking directions to the other legal heirs in the matter to give their 'No Objection Certificate' to pursue the case being Case No. 1515/2015 (Old Number 462789/2016) titled "M/s Walianet vs. Gurveen Singh and Others." The said case is pending before the ld. MM-01 (South), Negotiable Instruments Act, Saket Court, Delhi, and is stated to be a case related to the cheque issued by the tenant of property bearing No. M-25, Greater Kailash-I, New Delhi which has been dishonored.

10. It is not disputed that the said property, as per the settlement recorded by this Court on 16th October 2018, has fallen to the share of Mr. Hemant Walia. Accordingly, none of the parties have any objection in respect of Mr. Hemant Walia pursuing the aforementioned proceedings, subject to the condition that any amounts recovered from the said proceedings, relating to the period prior to the settlement, shall be placed into the joint bank account.

11. Insofar as the expenses which may be incurred are concerned, only the court fee portion of the expense shall be borne jointly by all the parties. Insofar as the counsel's fee is concerned, the same shall be borne by Mr. Hemant Walia.

12. This order shall serve as a 'No Objection' issued by all the other legal heirs in favour of Mr. Hemant Walia, to pursue the proceedings on behalf of M/s Walianet, which was a partnership concern belonging to Mr. Hemant Walia along with his father, Late Mr. S.S. Walia and Hemant Walia.

13. With these directions, the present application is disposed of. Ex.APPL. (OS) 822/2021

14. This is an application filed by the Decree Holder- Ms. Himani Walia seeking directions to Judgment-Debtor No.1- Mr. Hemant Walia to account for the amounts taken by him under various heads.

15. Mr. Hemant Walia has claimed reimbursement of amounts which were allegedly paid as medical expenses for Late Mr. S.S. Walia and Dr. Urmila Walia. He submits that he had incurred the said expenses from his own personal account. The same is also stated to have been shown to the Id. Mediator as also the parties during the proceedings.

16. In the present application, it is the case of Ms. Himani Walia that all medical bills were settled during the lifetime of the said two persons, and there was no additional expense incurred by Mr. Hemant Walia, for which adjustment could have been given. Accordingly, it is prayed by her that the adjustment qua a sum of Rs.13,16,000/- which was given to Mr. Hemant Walia, ought to be reverted.

17. Since a dispute has been raised in respect of the above, the same would have to be refuted by Mr. Hemant Walia. Accordingly, let a reply to the present application, along with the relevant documents relied upon to support the incurring of expense, be filed by way of an affidavit, within four weeks. Let rejoinder thereto, if any, be filed within two weeks thereafter.

18. List on 9th May, 2022.

EX.APPL.(OS) 819/2021

19. This is an application filed by Judgment Debtor No.1-Mr. Hemant Walia, seeking directions to Judgment Debtor Nos.2 & 3 with respect to the transfer of the Vehicle being Maruti Suzuki SX4 numbered DL 3CCB 1830, for which the 'No Objection' has to be signed by Mr. Amit Walia and Mrs. Urvashi Walia. Directions are also sought in the present application to the Decree Holder as also to Judgment Debtor No.2 to file all the relevant documents pertaining to the transactions for which they had taken money from the Joint Expense Account No.1 and Joint Expense No.2.

20. Mr. Sharma, Id. Counsel appearing for Mr. Amit Walia submits that blank forms were given for the transfer of the said Vehicle. Accordingly, the same were not signed by his client. He submits that

if duly filled up forms are handed over to him, he shall get the necessary signatures on the same by Mr. Amit Walia and Mrs. Urvashi Walia, and return the same to Mr. Hemant Walia.

21. Accordingly, the application is disposed of with the directions that the forms duly signed and any other documentation which are to be signed by Mr. Amit Walia and Mrs. Urvashi Walia, duly filled up forms shall be handed over to Mr. Sharma within two weeks. Upon receiving the same, within two weeks thereafter, the documents shall be duly signed by the said two persons and handed over to Mr. Hemant Walia.

22. Insofar as the prayer seeking directions in respect of the Decree Holder and Judgment Debtor No.2- Mr. Amit Walia, to file relevant documents pertaining to transactions from the joint expense accounts is concerned, the same is quite vague and ambiguous without any specific information being sought. If any specific documents are required in respect of any expense which has been incurred, the said details may be sought from Ms. Himani Walia and Mr. Amit Walia, who shall give the same within two weeks upon receiving the request.

23. Accordingly, the present application is disposed of.

EX.APPL.(OS) 580/2021 & EX.APPL.(OS) 748/2019

24. The present applications filed by the Judgment Debtor No.1 relate to the Land & Development Office (hereinafter, "L&DO") charges for the Panchshila Service Station.

25. Insofar as the L&DO dues in respect of the said station is concerned, HPCL i.e., the company which was running the petrol pump, has filed its affidavit. However, according to Ms. Khair, Id. Counsel for Judgment Debtor No.1, the same is not satisfactory as it does not provide a breakup of the dues. Mr. Ashish Rana, Id. Counsel appearing for HPCL, submits that whatever details were available, have been communicated to Ms. Khair, as also her client.

26. Insofar as the L&DO's dues are concerned, this Court has, vide order dated 14th February, 2020 clearly directed as under:

"3. The following further directions are passed in this matter:

i) In respect of the Panchshila Service Station, if any demand is raised by the L&DO, the said demand and the amount when finally decided by any Court of law will be borne by the four parties in equal shares. All the four parties are present in Court, and undertake to bear the said amounts if and when any Court of law decides the amount payable by the said business;"

27. As per the above direction, it is clear that the L&DO's dues would have to be shared equally between all the four parties. However, if there are any disputes as to the amount payable, or the extent of the liability qua the L&DO dues in respect of the Panchshila Service Station, parties may resort to their respective remedies in accordance with law, as the same is not the subject matter of

the present petition.

28. If the HPCL has any further information, the same shall be provided without fail within a period of two weeks to the parties concerned so that they can avail of their available remedies.

29. Any amounts on account of the L&DO dues, which may have been held back in the joint expense account, shall accordingly be distributed between the parties concerned, as the demand is currently stated to have been raised against the HPCL. If the said demand is raised against the Panchshila Service Station and attains finality, the same shall be communicated to all the parties by Mr. Hemant Walia, at which stage, the other three parties shall be liable to bear their respective shares in respect of the same.

30. The present applications are disposed of in the above terms.

31. List on 9th May, 2022.

32. This matter shall be treated as part-heard.

PRATHIBA M. SINGH, J.

FEBRUARY 7, 2022 Rahul/MW/AD (Corrected & released on 12th February, 2022)