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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 29th April, 2025**

+ CM(M) 1018/2019 & CM APPL. 30460/2019 & CM APPL. 30461/2019 & CM APPL. 47599/2019

M/S D S GLOBAL PVT LTDPetitioner

Through: Mr. Vineet Tayal and Mr. Nishtha Wadhwa, Advocates.

versus

M/S IND SYNERGY LTDRespondent

Through: Mr. Aayush Aganwala and Mr. Aman Shekhar, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The petitioner herein has challenged order dated 30.05.2019 whereby the Executing Court has issued *warrants of arrest* against the Directors of the Judgment Debtor company on the basis of application filed by the decree-holder under Order XXI Rule 37 and 38 CPC.
2. The prime-most grievance of the petitioner herein is with respect to non-adherence to the standard protocol which is prescribed for the abovesaid purpose. Reference, in particular, has been made to *CELL Page Communication vs. Vijay Shankar Pandey: 2022 SCC OnLine Del 3421*.
3. It is, however, noticed that when the present petition was taken up, way back on 09.07.2019, appreciating the abovesaid contentions and without prejudice to the rights and contentions of the petitioner, Directors of petitioner company were directed to appear before the Executing Court through counsel on 16.07.2019 with direction to show cause in terms of Order XXI Rule 37 CPC. It was also clarified that the personal presence of such Directors would not be insisted upon by the learned Executing Court.



4. Such Directors of petitioner company did appear, through its counsel, before the learned Executing Court on 16.07.2019. Though, on 16.07.2019, when they appeared before the learned Executing Court, the learned Executing Court should have, in terms of the abovesaid specific directions, served them with a notice in the prescribed format i.e. Form No.12 of Appendix-E, CPC, fact, however, remains that in its over enthusiasm, they themselves submitted a comprehensive reply, same day, before the learned Executing Court with the prayer that such *Show Cause Notice* may be discharged and they may not be committed to prison. When the abovesaid reply was filed by them, they described the same as “*Show Cause Notice in terms of Order XXI Rule 37 and 38 CPC*”.

5. According to learned counsel for petitioner, he had indicated the same in terms of the directions contained in order dated 09.07.2019.

6. Learned counsel for petitioner, in all fairness, submits that he would not be hyper-technical in this regard either and since a comprehensive reply has already been filed, he would not insist for any formal issuance of *Show Cause Notice*. Apparently, since reply has already been filed, for all practical purposes, they are deemed to be served with a *Show Cause Notice*.

7. It is apprised that the proceedings with respect to the abovesaid response are still pending adjudication before the learned Executing Court.

8. After hearing both the sides, the present petition is, accordingly, disposed of with direction to the learned Executing Court to consider the abovesaid comprehensive reply filed by the petitioner and to dispose that of in accordance with law, after giving due opportunity of hearing to both the sides.

9. Needless to say, in view of the abovesaid specific submission made by the learned counsel for the petitioner, though there would not be any



requirement of serving the petitioner with *Show Cause Notice*, nonetheless, the learned Trial Court would strictly proceed further with the matter in terms of the protocol delineated in *CELL Page Communication* (supra).

10. The next date before the learned Executing Court is stated to be 08.05.2025 and it is expected that both the sides would render due assistance and cooperation to the learned Executing Court so that proceedings under Order XXI Rule 37 and 38 CPC are concluded.

11. The personal appearance of the Directors would not be insisted upon, till the disposal of the abovesaid proceedings, unless the Court, for reasons to be recorded, feels such personal presence imperative.

12. During course of the arguments, learned counsel for the petitioner submitted that, on account of some personal pre-occupation, he may not be able to assist the learned Executing Court on 08.05.2025. He submits that he would move appropriate application in this regard before the learned Executing Court for deferring the proceedings to a very short date. As and when, any such application is moved, the learned Executing Court shall consider the same and would give another date subject to the convenience and availability of the counsel for both the sides.

13. Learned Executing Court would also make best endeavour to dispose of the abovesaid proceeding, as expeditiously as possible.

14. The petition stands disposed of in aforesaid terms.

15. Pending applications, if any, stand disposed of.

(MANOJ JAIN)
JUDGE

APRIL 29, 2025/ss/SS