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

+ **OMP (ENF.) (COMM.) 187/2018**

DEEPAK BERI

..... Decree Holder

Through

Mr. Akshay Makhija and Mr. Saurabh Seth, Advs.

versus

ATUL BERI & ANR

..... Judgement Debtors

Through

Mr. Arun Kathpalia, Sr. Adv. with Mr. Jayant Mehta, Mr. Samar Singh Kachwaha, Mr. Raghavendra M. Bajaj, Ms. Shivangi Nanda, Mr. Agnish Aditya, Mr. Kauser Hussain and Ms. Anu Srivastava, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**01.03.2021**

**E.A. No.260/2021**

1. Judgement Debtor No.1 has filed the present application, *inter alia*, praying as under:

- "i. Modify the order dated 22.04.2019 passed by this Hon'ble Court in the captioned petition, to forthwith allow Atul to independently access and control all future banking operations of the new bank account of DBEPL, bearing A/C No. 081605008607 at ICICI Bank, Noida Sector 63 (opened pursuant to the order dated 22.04.2019), as a sole signatory.
- ii. Allow Atul to independently access and control all future banking operations of BMGL's bank account,



bearing A/C No. 0348214000012 at Canara Bank, Okhla, as a sole signatory.

- iii. Issue necessary directions to ICICI Bank, Noida Sector 63 and Canara Bank, Okhla to allow all banking operations under Atul Beri's sole signature."

2. Mr Kathpalia, the learned Senior Counsel appearing for the applicant (Judgement Debtor No.1) submits that Mr. S. K. Beri (Judgement Debtor No.2) has since expired and, therefore, the Judgement Debtor No.1 needs to independently operate the bank accounts, which were earlier operated jointly. He submits that, to that extent, the order dated 22.04.20219 passed by this Court requires to be modified. He submits that in addition to the above, Judgement Debtor No.1 also needs to pay salaries to employees from the account of Banaras Marbles and Granite Ltd. (BMGL) in terms of the order dated 31.05.2018 passed by this Court. Since the operation of bank account of BMGL – Account bearing No.0348214000012 maintained with Canara Bank, Okhla – has also come to a standstill due to the demise of Judgement Debtor No.2, necessary directions for operating the same independently by the applicant are also required.

3. Mr. Makhija, the learned counsel appearing for the Decree Holder submits that he has no objection to the prayers made in this application. He, however, submits that in terms of the order dated 22.04.2019, the Decree Holder was directed to open a separate bank account to be operated by him and Mr. S.K. Beri. He submits that necessary directions for permitting single signatory operation of the said bank account under the Decree Holder's signatures is also required.

4. It is relevant to refer to paragraph 9 of the order dated 22.04.2019



which is set out below:

“9. Accordingly, the application is disposed of with the following directions:

- (i) the judgment debtor (i.e. Mr. Atul Beri will deposit interest bearing FDR(s) created with Canara Bank and/or HDFC Bank having a cumulative amount of INR 9,77,45,160/- with the Registry of this Court.
- (i)(a) A direction as sought is issued to the concerned bank i.e. Canara Bank for converting the foreign currency available in DBEPL's maintained with it into INR at the extant rate of exchange.
- (ii) The judgment debtor (i.e. Mr. Atul Beri) shall hereafter open a separate bank account in the name of DBEPL which will have him as well as Mr. S.K. Beri as co signatories.
- (iii) Likewise, the decree holder (i.e. Mr. Deepak Beri) shall also open a separate bank account in the name of Mr. S.K. Beri and brothers to which Mr. S.K. Beri will be a co-signatory.
- (iv) Lastly, the FDR(s) created by the judgment debtor (i.e. Mr. Atul Beri) will be deposited with the Registry of this Court, within three (3) weeks from today.
- (v) If for creation of the FDR(s), signatures of Mr. S.K. Beri are required, the concerned bank i.e. Canara Bank and/or HDFC Bank will act on the signatures of Mr. S.K. Beri alongwith those of the judgment debtor (i.e. Mr. Atul Beri).
- (vi) The amount invested in the FDR(s) will abide by the final orders of this Court.”



5. In view of the consensus between the parties, directions are issued in terms of paragraph 9(ii) and 9(iii) as quoted above, as the same are now required to be altered. It is accordingly directed that Judgement Debtor No.1 would operate the bank account of DBEPL, bearing A/C No. 081605008607 maintained with ICICI Bank, Sector 63, Noida, as a sole signatory. Similarly, it is also directed that operations of the bank account of M/s SK Beri and Brothers being A/c No. 0348214000060 maintained with Canara Bank, Okhla Industrial Estate, New Delhi, shall be carried out by the Decree Holder (Deepak Beri) as a sole signatory.
6. The order dated 22.04.2019 is modified to the aforesaid extent.
7. There is no objection to Judgment Debtor no.1 continuing with the bank operations of BMGL's bank account being A/C No.0348214000012 maintained with Canara Bank, Okhla, under his sole signatures. It is directed that the said bank account be also operated by the Judgement Debtor No.1 independently.
8. The application is allowed in the aforesaid terms.
9. Needless to state that the above is without prejudice to all rights and contentions of the parties.
10. The concerned banks are directed to permit the bank operations as directed above on the strength of this order.

**VIBHU BAKHRU, J**

**MARCH 1, 2021**

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