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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P.(EFA)(COMM.) 6/2016
DAIICHI SANKYO COMPANY, LIMITED

..... Petitioner

Through Mr. Arvind Nigam and Mr. Arun Kathpalia, Sr. Advs with Mr. Amit K. Mishra, Mr. Abhijeet Sinha, Mr. Mohit Singh, Ms. Kanika Singhal, Ms. Samridhi Hoya, Mr. Turab Ali Kazmi, Mr. Rohan Jaitley, Mr. Aditya Shanker, Mr. Mikhil Sharda, Mr. Mehtaab Singh Sandhu and Mr. Kunal Chatterji, Advs.

versus

MALVINDER MOHAN SINGH AND ORS.

..... Respondents

Through Ms. Neeharika Aggarwal, Adv for R-1 to R-4 and R-13.
Mr. C.S. Vaidyanathan, Mr. Sanjay Jain, Sr. Advs with Mr. Gyanendra Kumar, Ms. Shikha Tandon, Mr. Abhijit Mittal, Mr. Robin Grover, Mr. Vaibhav Kakkar, Mr. Saleem Hassan, Mr. Rautrey Pandya, Mr. Anirudh Gupta and Ms. Priya Verma, Advs. for FHL.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **01.08.2018**

I.A. No.9264/2018

1. It appears that apart from respondents No. 5 and 9 to 12, who

are minors, other respondents who are judgment-debtors have not filed their replies. These being respondents No. 1 to 4, 6 to 8 and 13 to 19.

2. Apart from the aforesaid respondents, the entity by the name of Fortis Healthcare Limited (in short 'FHL') has been arrayed as a party vide order dated 18.07.2018, insofar as this application is concerned. FHL has filed its reply to the captioned application.

2.1 To be noted, FHL is not a judgment-debtor.

2.2 It is, however, the contention of the decree-holder that FHL will get roped in, if the single economic entity principle is applied to it. In this behalf, it is contended that interest in FHL was held by respondent No.1 and 6 via respondent No.14 and 19, which in turn held share in its holding company i.e., Fortis Healthcare Holding Private Ltd. ('FHHL').

2.3 Mr. Vaidyanathan, who, appears for FHL says that there is no pleading to that effect.

3. In these circumstances, Ms. Neeharika Aggarwal, who represents respondents No. 1 to 4, 6 to 8 and 13 to 19 says that she would like to file a reply to the captioned application.

3.1 The record shows that notice in this application was issued on 18.7.2018 when, an opportunity was granted to file a reply to the captioned application. The captioned application, though, in view of urgency expressed by counsel for parties on that date was de-linked from the main matter and other applications. The captioned application was, accordingly, posted for hearing today, while the

main matter and remaining applications have been posted for hearing on 5.9.2018. It appears because of a typographical error, which crept in the order, 4 weeks were granted for filing a reply.

3.2 Ms. Aggarwal says because there was time available, reply has not been filed as yet *qua* the captioned application.

3.3 Thus, recognising the fact that inadvertently error had crept in the order, and given the fact the decree holder/applicant seeks to press the captioned application, I am inclined to grant further time to Ms. Aggarwal to file a reply to the captioned application.

3.4 Let the needful be done within one week from today.

4. Having heard the matter for some time, I am of the view that it is clear that respondents No. 1 & 6 are required to be remain present in Court on the next date. This view I am inclined to take having regard, *inter alia*, to orders dated 23.1.2017 and 6.3.2017 passed by this Court, as also, the affidavit of respondent No.14 dated 8.2.2017 and two affidavits of even date i.e., 14.3.2017 filed by respondent No.14 and 19.

4.1 The assertions made in these affidavits are suggestive of the fact that as on 28.2.2017, respondent No.14 held shares in FHHL worth Rs. 452.60 crores, numbering 17,68,000, while respondent No.19 held, likewise, on the aforesaid date in the very same company (i.e. FHHL) shares worth Rs.1889.30 Crores, numbering 7,38,02,900.

4.2 It is not in dispute that on account of subsequent events FHHL's stake in FHL has dropped to 0.63%.

4.3 On behalf of the decree holder/applicant, it is contended that as on 31.3.2016, prior to the date of award, FHHL's equity stake in FHL was 71.7%. The award in this case was passed on 29.4.2016.

5. Given these circumstances, in my view, the matter needs further examination. Accordingly, as indicated above, respondent No.1 and 6 are required to remain present in the Court on the next date of hearing. It is ordered accordingly.

6. Renotify the matter on 10.08.2018.

7. In the meanwhile, the decree-holder/applicant will be at liberty to file a rejoinder(s) in the matter.

8. *Dasti.*

RAJIV SHAKDHER, J

AUGUST 01, 2018/A