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

+ OMP (ENF.) (COMM.) 82/2019

KLA CONST TECHNOLOGIES PVT. LTD. ....Decree Holder

Through: Dr. Amit George &  
Mr. K.K. Shukla, Advocates

Versus

THE EMBASSY OF ISLAMIC REPUBLIC OF AFGHANISTAN

.....Judgment Debtor

Through: Mr. Raghavendra M Bajaj,  
Mr. Ejaz Maqbool, Ms. Garima  
Bajaj, Ms. Akhriti Chaubey,  
Mr. Agnish Aditya and Mr. Nikhil  
Bamal, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**ORDER**

**23.08.2021**

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The hearing has been conducted through video conferencing.

**EX.APPL.(OS) 901/2021**

1. By this application, decree holder is seeking attachment of movable and immovable assets of the judgment debtor to satisfy the award.
2. Learned counsel for decree holder submits that in view of collapse of Islamic Republic of Afghanistan and rapid take-over of the country by Taliban, execution of the award in question has come under clouds and for this reason, the present application has been filed seeking attachment of accounts of judgment debtors, as mentioned in Para-4 & 5 of this application.

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3. Notice issued.

4. Mr. Raguvendra Bajaj, Advocate, accepts notice on behalf of judgment debtor and submits that the Special Leave Petition against the judgment dated 18.06.2021 passed by this Court, came up for hearing before the Hon'ble Supreme Court on 19.08.2021 and in view of the fact that judgment debtor has no instructions, the same has been deferred for six weeks. Learned counsel submits that judgment debtor has no instructions in the present case and prays for two weeks' time to obtain instructions.

5. The aforesaid submission of learned counsel for judgment debtor is strongly opposed by learned counsel for decree holder submitting that in the present scenario prevalent in Afghanistan, decree holder may not be able to recover the awarded amount and, therefore, the bank accounts of judgment debtor be attached so that funds can be utilized for recovery in present proceedings.

6. Pertinently, vide judgment dated 18.06.2021, the award dated 26.11.2018 was held to be maintainable and respondent was granted four weeks' time to deposit the arbitral award. Further, a direction was also given to respondent to file affidavit of assets on the date of the cause of action, date of the award as well as on the date of passing of the judgment in Form 16A Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure within 30 days. None of the directions have been complied with. This Court is informed that the Special Leave Petition challenging the judgment dated 18.06.2021 is pending consideration before the Hon'ble Supreme Court, which has been adjourned for six weeks.

7. Learned counsel for decree holder has informed that as of date, amount of Rupees One crore and Eighty Lacs (including interest) is due towards the award and against the judgment debtor.

8. Keeping in mind that the arbitral award pertains to the year 2018 and despite directions of this Court vide judgment dated 18.06.2021, learned counsel is unable to disclose assets of judgment debtor and pleads no instructions, coupled with the fact that the prevalent political situation in Islamic Republic of Afghanistan is not clear, this Court is left with no option but to take on record the details of assets of judgment debtors so furnished on behalf of decree holder in the present application. Being conscious of the fact that Special Leave Petition against the judgment dated 18.06.2021 is pending consideration before the Hon'ble Supreme Court, to safeguard the interest of decree holder, this Court directs Kotak Mahindra Bank, Branch D Block, Vasant Vihar New Delhi to ensure that the total minimum balance amount in three account Nos. 3111478010, 3111478027 and 3111478041 of judgment debtors, shall not be less than Rupees One crore and Eighty Lacs. However, judgment debtor is at liberty to approach this Court in case of exigency, if any so arises before the next date of hearing.

9. The date of 27.08.2021 already fixed stands cancelled.

10. Renotify on 13.09.2021.

11. In the meanwhile, judgment debtor shall obtain instructions to assist this Court on the next date of hearing.

**SURESH KUMAR KAIT, J**

**AUGUST 23, 2021/r**