

\$~47 & 48 (common order)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ OMP (ENF.) (COMM.) 31/2019, I.A. 6946/2019, EX.APPL.(OS)  
679/2019, 1054/20 20  
KAL AIRWAYS PVT. LTD.

..... Decree Holder

Through: Mr.Maninder Singh, Senior Advocate  
with Ms.Nandini Gore, Ms.Sonia  
Nigam, Mr.Yash Dubey,  
Mr.Yashwant Gaggar, Mr.Prabhas  
Bajaj, Advocates.

versus

M/S SPICEJET LTD. & ANR.

..... Judgement Debtors

Through: Mr.Sandeep Sethi, Senior Advocate  
with Mr.Abhinav Sharma, Advocate.

+ OMP (ENF.) (COMM.) 32/2019 I.A. 6947/2019, EX.APPL.(OS)  
680/2019, EX.APPL.(OS) 749-51/2020, 1053/2020  
MR. KALANITHI MARAN

..... Decree Holder

Through: Mr.Maninder Singh, Senior Advocate  
with Ms.Nandini Gore, Ms.Sonia  
Nigam, Mr.Yash Dubey,  
Mr.Yashwant Gaggar, Mr.Prabhas  
Bajaj, Advocates.

versus

M/S SPICEJET LTD. & ANR.

..... Judgement Debtors

Through: Mr.Sandeep Sethi, Senior Advocate  
with Mr.Abhinav Sharma, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**ORDER**

% **29.05.2023**

1. The learned senior counsel for the decree holder submits *per order* dated 04.11.2020 passed in OMP (ENF.)(COMM.)31/2019, the judgment debtor has not filed the affidavit of assets till date and there exists a violation

of the said order.

2. It is further submitted *per* order dated 02.09.2020 passed by the learned Single Judge, the judgment debtors was directed to deposit an amount of Rs.242,93,70,845.56/- within three weeks. An application seeking modification of the said order, was rejected vide order dated 15.10.2020. Both these orders were challenged by the judgment debtor in civil appeal nos.1064-65/2023 before the Hon'ble Supreme Court and as such the appeals were disposed of vide an order dated 13.02.2023 whereby the bank guarantee was directed to be encashed immediately and proceeds were directed to be paid directly to the decree holder and such order has been complied with.

3. The judgment debtor was further required to pay an amount of Rs.75.00 crores to the decree holder within a period of three months towards the liability on account of interest pending disposal of the petition under Section 34 of the Arbitration and Conciliation Act and in the event of default in compliance of the order, the award was executable forthwith with its entirety.

4. The learned senior counsel for the decree holder submits an amount of Rs.75.00 crores has not been deposited as yet and hence the interest liability which was Rs.362.49 crores as noted in para 11 of the order dated 13.02.2023 has since increased to Rs.380 crores and thus the decree holder insists for compliance of order dated 13.02.2023.

5. The learned senior counsel for the judgment debtor however submit they have already paid principal amount of Rs.579.08 crores and now the payment only *qua* interest is pending and they have already moved an application before the Hon'ble Supreme Court for extension of time period

for further three months to the judgment debtor to make payment of Rs.75.00 crores to the decree holder. It is stated since the judgment debtor has filed an application before the Hon'ble Supreme Court for extension of time, hence be not directed to deposit the balance amount.

6. The filing of application has been disputed by the learned senior counsel for the decree holder and it is submitted this Court has no power to extend the time limit as was granted by the Hon'ble Supreme Court *per* order dated 13.02.2023.

7. The arguments of the decree holder appears plausible as *admittedly* there is no modification of order dated 13.02.2023 passed by the Hon'ble Supreme Court, hence it need to be followed.

8. Since the judgment debtor had failed to pay an amount of Rs.75.00 crores to decree holder, hence in terms of para 15(ii) of the order dated 13.02.2023 of the Hon'ble Supreme Court, there is no other alternative except to call upon the judgment debtors to deposit the entire outstanding amount *qua* interest forthwith, thus is so directed. Affidavit of assets be also filed within four weeks from today.

9. List on 05.09.2023.

**YOGESH KHANNA, J.**

**MAY 29, 2023**

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