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

+ CS(OS) 588/2013 and I.A. 19996/2014, 19997/2014,
18884/2015

SUNIL CHOUDHARY & ANR

..... Plaintiffs

Through: Mr. Ankit Jain, Advocate with plaintiff
No.1 in person.

versus

MOLLY KAPOOR

..... Defendant

Through: Mr. Sangramsingh R. Bhonsle,
Advocate with defendant in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **04.11.2015**

1. The present suit has been instituted by the plaintiffs praying *inter alia* for a decree of specific performance in respect of an Agreement to Sell dated 08.11.2011, directing the defendant to execute a Sale Deed in respect of the terrace above the second floor alongwith one servant quarter in premises No.E-406, Greater Kailash, Part-I, New Delhi.

2. This case has a rather chequered history. At the time of admission, on 03.04.2013, an ex-parte ad interim injunction order was granted in favour of the plaintiffs restraining the defendant from alienating, encumbering or parting with possession of the terrace above the second floor of the suit premises. After the defendant

entered appearance in the suit, with the consent of the parties, they were referred to the Delhi High Court Mediation and Conciliation Centre for exploring the possibility of arriving at an amicable settlement. Thereafter, the parties had filed a joint application under Order XXIII Rule 3 CPC (I.A.9684/2014) stating inter alia that they had amicably settled their disputes in respect of the suit premises and it was recorded that the defendant had identified a buyer in respect of the second floor and both the parties had agreed that the defendant shall execute a Sale Deed in respect of the second floor in favour of the prospective buyer and contemporaneously, she would execute a Sale Deed in respect of the terrace above the second floor in favour of plaintiffs herein. The said joint application was allowed vide order dated 19.05.2014 and the suit was disposed of. At the same time, liberty was granted to the plaintiffs to seek revival of the suit in case the defendant is in breach of the obligations cast on her under the Settlement Agreement.

3. It so turned out that the defendant breached the terms of the settlement. As a result, the plaintiffs had to file an application for seeking revival of the suit (I.A.19996/2014), which was allowed vide order dated 03.08.2015. Thereafter, the parties were directed to appear before the Joint Registrar for further proceedings in the suit. In

the meantime, the defendant had entangled two other parties in litigation in respect of the second floor of the suit premises. One party approached the Court for seeking specific performance of an Agreement to Sell in respect of the second floor and instituted CS(OS) 275/2015 and another party sought recovery of the money paid by him to the defendant in respect of the very same floor, i.e., the second floor, by instituting CS(OS) 1967/2015. All the three suits are listed today.

4. Counsels for the plaintiffs in CS(OS) 275/2015 and CS(OS) 1967/2015 submits that their clients have arrived at a comprehensive settlement with the defendant in respect of the second floor of the suit premises through the court annexed mediation. They submit that the Settlement Agreement dated 29.10.2015 has been placed on record and the suit may be decreed in terms thereof.

5. Pertinently, CS(OS) 275/2015 was listed before this Court yesterday. However, Mr. Ankit Jain, counsel for the plaintiffs in the present suit had intervened and stated that the settlement entered into by the defendant with the plaintiffs in the other two suits may not be permitted till the defendant settles the dispute with the plaintiffs in the present suit as well. He also informed that the defendant had been declared a Proclaimed Offender in a case arising out of FIR

No.349/2014 Police Station: Greater Kailash, registered against her on the complaint of the plaintiffs in CS(OS) 275/2015 and he expressed an apprehension that she may again renege from her obligations under the Settlement Agreement. It is in this background that the present suit was directed to be placed before this Court today alongwith CS(OS) 275/2015 and 1967/2015 so that a comprehensive settlement between the parties could be recorded.

6. Today, the plaintiff No.1 and the defendant are present. Counsel for the defendant states that he has filed an affidavit dated 03.11.2015, whereunder the defendant has undertaken to execute a Sale Deed in favour of the plaintiffs in respect of the terrace above the second floor of the suit premises alongwith one servant quarter and she has further stated that in case she fails to execute the Sale Deed in favour of the plaintiffs, then they shall be entitled to get the same executed through an officer appointed by the Court. Counsel for the plaintiffs has received a copy of the affidavit and is satisfied with the contents thereof.

7. Accordingly, the affidavit of the defendant is taken on record and she is bound down to the undertakings given by her therein. The defendant, who is present, states that she has no objection to executing a Sale Deed in favour of the plaintiff No.1 and/or his

nominee. Both the parties agree that they shall take steps to execute the Sale Deed in respect of the suit premises and have the same registered within one week from today.

8. In view of the aforesaid settlement, a decree of specific performance is granted in favour of the plaintiffs and the defendant is directed to execute a Sale Deed in respect of the terrace above the second floor alongwith one servant quarter in respect of premises bearing No.E-406, Greater Kailash, Part-I, New Delhi. The defendant shall execute the Sale Deed in favour of the plaintiff No.1 and/or his nominee within one week from today. In the event the defendant fails to take necessary steps within the stipulated time, the plaintiffs shall be entitled to seek their remedies in accordance with law. Decree sheet be drawn accordingly.

9. At the request of the counsel for the defendant, Mr. Jain, learned counsel for the plaintiffs states that his clients shall cooperate with the plaintiffs in CS(OS) 275/2015 and 1967/2015 and the defendant for quashing of FIR No.349/2014 Police Station: Greater Kailash.

10. At this stage, learned counsel for the plaintiffs states that since the parties have finally been able to negotiate a settlement, the plaintiffs may be refunded the court fee under Section 16-A of the Court Fee Act.

11. In view of the fact that the suit is still at the stage of framing of issues and the parties have revived the Settlement Agreement recorded in I.A. 9684/2014, as noted above, the prayer made by the counsel for the plaintiffs is allowed. The Registry is directed to issue a certificate in favour of the plaintiffs for refund of the court fees, as per law.
12. In token of acceptance of the terms and conditions of the settlement recorded hereinabove, the parties shall affix their signatures on the order sheet alongwith their counsels.
13. The suit is disposed of alongwith the pending applications while leaving the parties to bear their own expenses.
14. File be consigned to the record room.
15. The date already fixed stands cancelled.

NOVEMBER 04, 2015
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HIMA KOHLI, J