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

+ CS(OS) 1589/2014

ASCOT HOTELS AND RESORTS PVT LTD & ANR Plaintiffs
Through: Mr. Sushant Singh, Advocate with
Ms. Geetika Kapur and Ms. Anisha Gupta,
Advocates

versus

PRASHANT SHARMA AND DIKSHANT SHARMA & ANR
..... Defendants
Through: Ms. Nikhita Khetrapal, Adv. for D-1.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

% **ORDER**
04.03.2015

I.A. 4569/2015 (joint application u/O XXIII R 3 CPC)

1. Learned counsel for the plaintiffs starts by seeking leave to delete the name of the defendant No.2 from the array of the defendants.
2. It is stated by the counsel for the plaintiffs that the plaintiffs have arrived at a negotiated settlement with the defendant No.1 and the defendant No.2 is only the sales representative of the defendant No.1 and in view of the settlement arrived at between the said parties, no relief is prayed for against the defendant No.2, whose name may be dropped from the array of defendants.

3. Counsel for the defendant No.1 states that she does not have any objection to the deletion of the name of the defendant No.2 from the array of the defendants.

4. Ordered accordingly. The name of the defendant No.2 is deleted from the array of the defendants. Amended memo of parties shall be filed within one week with a copy to the other side.

5. At the outset, counsel for the plaintiffs states that an error has crept in sub para (h) and (i) of para 3 of the present application, whereunder it has been recorded that the parties have agreed that a decree may be passed against the defendants as per the prayers in Para 24(i) to (v) of the plaint, whereas the correct para in the prayer clause of the plaint is para 28. He further submits that a decree is not prayed for in respect of sub paras (i) to (v) of para 28 of the prayer clause as stated in the application, but in respect of sub paras (i) to (iii) and (v) of para 28.

6. Counsels for the parties jointly submit that they may be permitted to carry out the necessary corrections in sub paras (h) and (i) of para 3 of the present application.

7. Counsels for the parties have been permitted to carry out necessary corrections in para 3 of the application, against their

signatures.

8. The plaintiffs and the defendant No.1 have filed the present application stating *inter alia* that they have arrived at an out of court settlement, the terms and conditions whereof have been set out in para 3 of the application, whereunder the defendant No.1 has given a number of undertakings to the plaintiffs and in view of the said undertakings, the plaintiffs have agreed to forego the relief of damages claimed against the defendants and prayed for in para 28(iv) of the plaint. Counsels for the parties state that the suit may be decreed in terms of the settlement and as prayed for in prayer clauses 28(i) to (iii) and (v) of the plaint.

9. The Court has perused the application. The same has been signed by the Director of the plaintiffs No.1 and 2 and by the partner of the defendant No.1/firm. The application is supported by the affidavits of the signatories to the affidavits and the General Power of Attorney executed by one of the partners of the defendant No.1/firm in favour of the other partner, who has signed the application.

10. As counsels for the plaintiff and the defendant No.1 jointly state that they have arrived at the aforesaid settlement of their own free will and volition and without any undue influence or coercion from any quarters, there appears no legal impediment in accepting the

settlement. The parties shall remain bound by the terms and conditions of the settlement.

11. The suit is decreed in terms of the settlement arrived at between the parties and recorded in the present application and as per the reliefs sought by the plaintiffs in prayer clause 28 (i) to (iii) and (v) of the plaint.

12. The application is allowed and disposed of while leaving the parties to bear their own expenses.

13. The date already fixed before the Joint Registrar, i.e., 26.03.2015 stands cancelled.

HIMA KOHLI, J

MARCH 04, 2015

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