

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

+ CS(OS) NO. 2833/2012 & IA No. 6434/2013

Decided on : 05.02.2015

IN THE MATTER OF:

M/S SAI INTERNATIONAL

..... Plaintiff

Through: Mr. R.K.Bhasin, proprietor of plaintiff in person

versus

M/S KAIZER & ORS.

..... Defendants

Through: Mr. Jitendra Garg, Advocate with D-3 in person

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HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J.(Oral)

1. This order is being passed in continuation of the order dated 27.1.2015. On the said date, learned counsel for the plaintiff had stated that as per the settlement arrived at between the parties and recorded in the Settlement Agreement dated 7.11.2014, the defendants had agreed to pay a sum of ₹35 lacs to the plaintiff in full and final settlement of all its claim against them and out of the said amount, the defendants were required to pay the plaintiff the first installment of ₹6 lacs, on or before 31.12.2014. Learned counsel for the plaintiff had

submitted that out of the first installment of ₹6 lacs, the defendants have only paid a sum of ₹5 lacs and a sum of ₹1 lac was still outstanding.

2. In view of the aforesaid position, it was deemed appropriate to direct the presence of the defendant No.3, authorized on behalf of the defendants to sign the Settlement Agreement, to remain present today.

3. Defendant No.3 is present in court and states that a sum of ₹1 lac has been transferred through RTGS to the account of the plaintiff yesterday and therefore, the first installment stands paid. Both the parties point out that the balance agreed amount is to be paid in two installments, the second installment of ₹10 lacs, being payable on or before 31.3.2015 and the third and final installement of ₹19 lacs being payable on or before 30.6.2015. They state that in terms of clause 7(iii) of the Settlement Agreement, it was agreed by the parties that in event the installments are not paid by the defendants on or before the due dates, the delayed payment shall carry interest @ 18% p.a. on the outstanding amounts. However, the Settlement Agreement is silent with regard to the extent of default permitted to the defendants.

4. Learned counsel for the defendants states that it was agreed by the parties before the Mediator, that the full and final amount would be paid by the defendants in all circumstances, on or before 30.9.2015.

5. However, Mr.R.K.Bhasin, the proprietor of the plaintiff concern states that it was agreed that full and final payment would have to be made by the defendants on or before 30.6.2015.

6. The Settlement Agreement is silent as to the consequences of default in payment of the final installment and the cut off date in case of default. With the consent of the parties, it is recorded that the defendants shall clear the entire agreed amount, on or before 31.8.2015, and in case of default, the interest payable shall be 18% p.a., as agreed upon. It is further agreed that in the event of default in paying the agreed amount by the defendants beyond 31.8.2105, the entire amount paid by them to the plaintiff would stand forfeited and in that eventuality, the plaintiff would be entitled to approach the Court and seek revival of the suit.

7. Counsel for the defendants states that in terms of clause 7(v) of the Settlement Agreement, both the parties had agreed that they would file a joint application for release of the original title deeds of the immovable property at Ranjit Nagar, New Delhi, owned by the defendant No.4 and lying deposited in this court.

8. As the plaintiff and the defendant No.3 are present today, counsel for the defendants state that the Registry be directed to release the

original title deeds of the aforesaid property in favour of the defendant No.3. Mr.Bhasin, the proprietor of the plaintiff concern states that he has no objection to the aforesaid request. Accordingly, the defendant No.3 is permitted to approach the Registry through counsel for release of the original title deeds, in terms of the Settlement Agreement.

9. With the aforesaid additional conditions, the Settlement Agreement dated 7.11.2014, duly signed by the parties is taken on record, along with the power of attorneys executed by the defendants No.2 & 4 in favour of the defendant No.3 and enclosed with the Settlement Agreement. The parties shall remain bound by the terms and conditions of the settlement and the additional conditions recorded above. The suit is disposed of alongwith the pending application in terms of the settlement arrived at between the parties and recorded in the Settlement Agreement and in this order, as noted above.

10. The plaintiff has claimed refund of the court fees in terms of Section 16-A of the Court Fees Act.

11. Having regard to the fact that the suit has been settled through the court annexed mediation, prior to the evidence being recorded, the Registry is directed to issue a certificate in favour of the plaintiff for refund of 50% of the court fees, as per law.

12. Both the parties who are present in Court, have affixed their signatures on the margin of the last page of today's order sheet in acknowledgment of the terms and conditions of the settlement as recorded hereinabove.

FEBRUARY 05, 2015
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(HIMA KOHLI)
JUDGE