* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **<u>CS(OS) 2063/2010 IAs No.13522/2010. 2330/2013 & 750/2014</u>**

<u>Date of Decision: 13th January, 2015</u>

<u>IN THE MATTER OF</u>

THE VAISH CO-OPERATIVE ADARSH BANK LIMITED ..... Plaintiff
Through : Mr. Lalit Gupta, Ms.Payal Gupta & Ms.Garima Goel, Advocates with Mr.T.M.Taneja, CEO of the plaintiff in person

versus

M/S LUCKY STAR ESTATE INDIA(P) LTD. & ORS. ..... Defendants
Through : Mr.P.D.Gupta, Advocate for D-1
Mr.Dinesh Garg and Ms.Uditi Khattar, Advocates for D-2 to D-7

CORAM
HON'BLE MS.JUSTICE HIMA KOHLI

<u>HIMA KOHLI, J</u>. (Oral)

1. The present suit has been instituted by the plaintiff/Bank against the defendant No.1 and the defendants No.2 to 7, praying *inter alia* for passing a decree of permanent injunction in its favour, restraining them from interfering in its possession, access, ingress and egress in respect of the two flats situated on the second and third floors of the building popularly known as Virat Cinema Complex (Commercial Area), Dakshin Puri, New Delhi and measuring 2999.66 sq.ft. and 3719.03 sq.ft. respectively. The plaintiff has also prayed for a decree of permanent injunction against the defendants, restraining them from dealing in the

suit premises in any manner and/or carrying out any demolition, additions/alterations/modifications etc. therein.

2. During the pendency of the present proceedings, on 4.9.2013, a statement was made by learned counsel for the defendants that the defendants No.2 to 7 were likely to settle the matter with the defendant No.1/maintenance agency. As a result, the parties were referred to the Delhi High Court Mediation & Conciliation Centre for negotiating a settlement. Pursuant thereto, a Settlement Agreement dated 5.9.2013 was placed on record. The terms and conditions of the settlement between the defendant No.1 on the one hand and the defendants No.2 to 7 on the other hand, were set out in para 6 of the Agreement, whereunder it was agreed between the parties that the defendants No.2 to 4 would pay a sum of Rs.52 lacs to the defendant No.1 to settle their *interse* disputes. The said amount is stated to have been paid to the defendant No.1.

3. Counsel for the defendant No.1 submits that the defendants No.2 to 7 have paid the arrears towards the maintenance of the subject flats upto 30.9.2013 and his client reserves its right to recover the amounts payable thereafter, in accordance with law.

4. Counsel for the plaintiff/Bank states that the plaintiff is in possession of the suit properties on the basis of a Mortgage Deed executed in its favour by Lt.Sh.Puran Singh Sethi, the predecessor-in-title

of the defendants No.2 to 7 and the mortgagor had defaulted in repaying the loans disbursed by the plaintiff to him. The amounts that are due and payable to the plaintiff Bank have been crystallized in an Award dated 14.1.2002, read with a Corrigendum dated 30.1.2002, totaling to a sum of Rs.1,40,53,906/- along with interest @ 18% p.a., till realization. The said Award and Corrigendum were challenged in the court of law and have attained finality by now.

5. Counsel for the defendants No.2 to 7 does not deny the fact that the predecessor-in-title of his clients had mortgaged the subject premises in favour of the plaintiff/Bank for advances received. He submits that his clients do not have any objection if the suit is decreed in favour of the plaintiff in terms of the reliefs sought as the defendants No.2 to 7 have never interfered in the possession, or the ingress and egress of the plaintiff/Bank in the suit premises at any time and nor have the said defendants tried to sell, alienate, or create any rights therein. Lastly, it is submitted that the defendants No.2 to 7 have not carried out any additions, alterations etc. in the suit premises or tried to demolish the same as alleged. Similar submission is made by learned counsel for the defendant No.1.

6. In view of the aforesaid submissions, with the consent of the parties, the present suit is decreed in favour of the plaintiff/Bank and against the defendants, in terms of the prayer clauses (i) to (iii), along

with the pending applications, while leaving the parties to bear their own costs.

7. Needless to state that if so inclined, the defendants No.2 to 7 shall be at liberty to approach the plaintiff/Bank for negotiating a settlement directly, or by approaching the Delhi High Court Mediation & Conciliation Centre, in respect of the outstanding amounts payable by their predecessor-in-title and redeem the suit properties.

(HIMA KOHLI)
JUDGE

JANUARY 13, 2015
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