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

Date of decision: 11.08.2015

+ **W.P.(CRL) 1530/2015**

COL. MOHAN LAL CHANDAN & ORS Petitioners
Through Mr. Puneet Mittal, Advocate

versus

THE STATE (NCT OF DELHI) & ORS Respondents
Through Mr. R.S. Kundu, ASC (Crl.) with Mr.
Vishesh Wadhwa, Advocate
Mr. Tushar Thareja for Ms. Ranjana
Roy Gawai, Adv. for R-2 & R-3
along with respondent nos. 2 and 3

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C., 1973 seeking quashing of FIR No. 96/2014 under Sections 406/420/467/468/471/120B IPC registered at Police Station Economic Offences Wing, Delhi and the proceedings emanating therefrom.

2. The petitioners are alleged to have resold a property to the complainant, which had already been sold earlier to another person by way of an agreement to sell.

3. Learned counsel for the petitioners as well as complainants state that the dispute between the parties was referred to Delhi High Court Mediation

and Conciliation Centre and a settlement has been arrived at between the parties. The salient terms and conditions of the said Settlement Agreement dated 9th July, 2015 are as follows:-

“1. WHEREAS the Second Party entered into an Agreement to sell dated 02.01.2012 with Mrs. Aditi Gupta party on the First Party. By the said Agreement to Sell, the First Party agreed to purchase the entire second floor (to be constructed) of the property being D-146, Defence Colony, and New Delhi-110024 from Second Party for a total sale consideration of Rs.2,75,00,000/- (Rupees Two Crore Seventy Five Lacs only). Alongwith the said Agreement to Sell dated 02.01.2012, the Second Party also executed a General Power of Attorney dated 02.01.2012 in favour of the First Party.

2. WHEREAS on the same day dated 02.01.2012 the First Party paid a sum of Rs. 2,00,00,00/- (Rupees Two Crore only) by cash and two cheques of Rs. 25,00,000/- (Rupees Twenty Five Lacs only) each drawn on HDFC Bank in favour of Chandan and Chandan Enterprises PVT. LTD. and Col. Mohan Lal Chandan party of the Second Party issued a receipt of payment-dated 02.01.2012 for a total sum of Rs. 2,50,00,000/- (Rupees Two Crore fifty Lacs only) on behalf of the company.

3. WHEREAS the Chandan and Chandan Enterprises Pvt. Ltd. party of the Second Part was under obligation to complete the construction and hand over the property to the First Party on or before June 2013.

4. WHEREAS despite repeated requests and completion of all payments as above, the construction could not be completed as per the schedule.

5. WHEREAS thereafter the Mrs. Aditi Gupta party of the First Part was constrained to file a petition under Section 9 of the Arbitration and Conciliation Act, 1996 being OMP No.491 of 2014 before the Hon'ble Delhi High Court. The Hon'ble Delhi

High Court vide order dated 02.05.2013 directed the parties to maintain status quo with regard to title and possession of property bearing No.d-146, Defence Colony, New Delhi-110024; D-36, Defence Colony, New Delhi-110024 and D-47, Defence Colony, New Delhi-11002; Which order was later modified vide order dated 12.03.2015 and confined itself to property bearing No. D-146, 2nd Floor, Defence Colony, New Delhi- 110024.

6. WHEREAS thereafter the Mrs. Aditi Gupta party of the First Part filed a petition under Section 11(5) of Arbitration and Conciliation Act 1996 in the Hon'ble Delhi High Court which was numbered as Arbitration Petition No.499 of 2014.

7. WHEREAS Shri S K Gupta party of the First Part also filed FIR No. 96/2014 under Sections 406, 420, 407, 468, 471, 120B of IPC against the Second Party with the Police station, Economic Offences Wing, New Delhi, which is pending investigation.

8. WHEREAS the matter was referred to Samadhan (Delhi High Court Mediation and Conciliation Centre) vide order dated 21.05.2015.

9. WHEREAS the parties agreed that Mr. B.L. Wali, Advocate would act as Mediator in the matter of Mediation and Conciliation proceedings.

10. Meetings were held between the parties along with their respective counsels on 28.08.2015, 02.06.2015, 04.06.2015, 03.07.2015, 07.07.2015 and 09.07.2015 and the parties have, with the assistance of the Mediator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.

11. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at the Settlement Agreement in the presence of the Mediator.

12. The following settlement has been arrived at between the parties as under:-

a) It is understood by the First Party that the terms of this agreement are offered by the Second Party in full and final settlement of all claims (past, present and future) or rights or actions that the First Party has or may have against the Second Party whether under common law, contract statute, criminal law or otherwise, whether such claims are or could be known to the parties or in their express contemplation at the date of this agreement including claims which as a matter of law do not at the date of this agreement exist and whose existence cannot currently be foreseen in any jurisdiction.

b) The Second Party agrees to pay to the First Party a sum of Rs. 1,00,00,000/- (Rupees One Crore only) as an amount to settle the matter vide demand draft bearing number 029534 dated 28.05.2015 drawn on PNB, M.G. Road, Gurgaon for Rs. 60,00,000/- (Rupees Sixty Lacs Only) and demand draft bearing number 029535 dated 28.05.2015 for Rs. 40,00,000/- (Rupees Forty Lacs Only) drawn on PNB, M.G. Road, Gurgaon Bank. The said demand draft of Rs.40,00,000/- shall be retained by Shri Puneet Mittal, Advocate for the Second Party in terms of clause(d) of this settlement.

c) That it is further agreed between the parties that at the time of execution of this settlement agreement the First Party shall also sign the joint quashing petition prepared by the Second Party and the same shall be filed before the Delhi High Court.

d) That a sum of Rs. 60,00,000/- (Rupees Sixty Lacs Only) has been paid by the Second Party to the First Party on 09.07.2015 at the time of execution of this settlement agreement and further sum of Rs.40,00,000/- (Rupees Forty Lacs Only) shall be paid by the Second Party to the First Party at the time of making of statement by the First Party in support of the quashing petition before the Delhi High Court subject to handing over the Demand Draft of Rs.40,00,000/- (Rupees Forty Lakhs Only) by Shri Puneet Mittal, Advocate for the Second Party to the First Party.

e) That if the said quashing petition is not filed within 15 days of execution of this settlement agreement, in that case the sum of Rs. 60,00,000/- (Rupees Sixty Lacs Only) as paid by the Second Party to the First Party shall stand forfeited and the First Party will be at liberty to revive all the petition/FIR pending before various forums against the Second Party. For which first party undertakes to appear before the court as and when necessary.

f) In consideration of the aforesaid and realization of the full consideration to be paid by the Second Party, the First Party agrees not to institute and/or press for any further legal remedies or the claims of damages, rendition of accounts and criminal proceeding etc. against the Second Party and/or its relatives, employees, representatives and workers.

g) The First Party knowingly and voluntarily covenants that immediately after realization of full consideration amount in terms of the instant agreement, it will withdraw all the previous litigation including both civil and criminal cases including OMP No. 491 of 2014 and Arbitration Petition No. 499 of 2014 pending before the Hon'ble Delhi High Court.

h) It is understood between the parties that in terms of the settlement, agreement to sell, receipts, security cheques or any other documents executed between the parties or any of their family members and companies of the second parties, stands cancelled and have no legal sanctity and are not enforceable or executable in any court of law or forum. And with this no claim inter-se between the parties or their relatives stand unsettled.

i) The first party assures that they are not in possession of any other agreement to sell, blank cheques, receipts and/or any other documents issued by Col. Mohan Lal Chandan either in his personal capacity and/or on behalf of his company in his capacity as a director.

j) It is made clear that both the parties shall abide by the aforesaid terms and conditions of this agreement and any of the parties shall not challenge this agreement before any court of law.

13. By signing this Agreement the parties hereto state that they will have no further claims or demands against each other and all the disputes and differences in this regard have been amicably settled by the parties hereto through the process of Mediation.”

4. In pursuance to the said Settlement Agreement dated 9th July, 2015, a sum of Rs. 60 lakhs has already been received by the complainants (respondent nos. 2 and 3 herein). The complainants acknowledge receipt thereof. Further, a sum of Rs. 40 lakhs has been brought to the Court by way of a demand draft dated 28th May, 2015 bearing no. 029535 in favour of Aditi Gupta drawn on Punjab National Bank, M.G. Road, Gurgaon (Haryana).

5. The complainants, who are present in person and have been identified by the Investigating Officer namely SI Sanjeev Kumar, P.S. EOW, Delhi, acknowledge the receipt of the aforesaid demand draft subject to realization.

6. The complainants state that they are no longer keen to prosecute the subject FIR and the proceedings emanating therefrom.

7. The Settlement Agreement dated 9th July, 2015 entered into between the parties is lawful and the parties shall abide by the terms and conditions stated therein.

8. Since the dispute between the parties which arose out of a property transaction has been amicably resolved without any undue influence, pressure or coercion, no useful purpose shall be served by prosecuting the subject FIR and the proceedings emanating therefrom.

9. In view of the above, the FIR No. 96/2014 under Sections 406/420/467/468/471/120B IPC registered at Police Station Economic Offences Wing, Delhi and the proceedings emanating therefrom are hereby set aside and quashed *qua* the petitioners subject to the petitioners depositing an aggregate sum of Rs. 50,000/- with the Advocates' Welfare Fund, Delhi within a period of two weeks from today. The receipt thereof shall be provided to the Investigating Officer namely SI Sanjeev Kumar, Police Station Economic Offences Wing, Delhi.

10. Resultantly, the look-out circulars issued against the petitioner nos. 1 and 3 in pursuance to the subject FIR are hereby rendered infructuous.

11. The writ petition is allowed with the above directions and disposed of accordingly.

SIDDHARTH MRIDUL, J

AUGUST 11, 2015

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