

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

***APPEAL FROM ORDER NO. 266 OF 2014
With
CIVIL APPLICATION NO. 310 OF 2014***

M/s. The Sterling ... Appellant
V/s.
Shri Raghunath Kaluram Koli & ors. ... Respondents.

Mrs.Nita Mandhyan i/b S.M.Associates, for the Appellant /
Applicant.
Ms.Priyanka Thakur, for Respondent Nos.1 to 3.

***Coram : N.M. Jamdar, J.
Thursday, 14 July 2016.***

P.C. :-

The learned counsel for the Appellant seeks leave to delete Respondent No.5. Respondent No.4 has already been deleted and will also delete Respondent No.4 and 5 in the pending Suit. The deletion of Respondent Nos.4 and 5 is at the risk of the Appellant.

2. The learned counsel for the Appellant and Respondent Nos.1 to 3 state that they have executed Consent terms and it has been signed by all concerned. The learned counsel state that their respective clients are present in the Court. At their request the Consent terms are taken on record and marked 'X' , which are reproduced for sake of convenience as follows -

Consent terms

1) *Mr Raghunath Kaluram Koli, 2. Mr Mahadeo Kaluram Koli and 3. Mr. Shivraj Kaluram Koli the Respondents herein are lessees of the land Plot No. 85, Sector 20, Situated at Ulwe, Tal. Panvel, Dist – Raigad.*

WHEREAS By a M.O.U dated 25th May 2011 the Respondent Number 1 -3 had agreed to sell the Plot No. 85, Sector 20, Situated at Ulwe, Tal. Panvel, Dist – Raigad to M/S The Sterling a partnership firm. There occurred certain differences and hence M/S Sterling filed a suit for specific performance in the District court at Panvel. The Application for interim relief was rejected and hence the present Appeal from order has been filed in the Hon'ble High Court being Appeal No 226 of 2014.

1. *The parties have now realized that one Mr. Ranjitkumar (Respondent No. 5) has defrauded both the parties concerned and has wrongly misappropriated the amount of Rs.16,00,000/- (Sixteen lakhs Rupees only) From the amount of Rs. 1,70,00,000/- One crore seventy lakhs which the appellants had handed over Ranjitkumar to be paid to the Respondents. The Respondents have received only Rs 1,54,00,000/- (One crore fifty four lakhs only. The Appellants and respondents hereby agree that the said Ranjitkumar (Respondent NO. 5) has no right title and interest in the said plot of land. The Respondents further clarify that they have not given any authority or entered into any agreement with the said Ranjitkumar to deal or dispose off the property on their behalf.*

The parties have now agreed to settle the dispute.

2. *It was further agreed that the amount of Rs 1,54,00,000 (1 crore fifty four lakhs) was received by the Respondents as part payment. though the appellant*

claimed to have paid an amount of 1,70,00,000 (1 crore seventy lakhs only) The sterling has now agreed to pay the further sum of Rs 2,78,00,000(two crores seventy eight lakhs.) to the Respondents valuing the plot at a total of Rs 4,32,00,000(four crores 32 lakhs only).

3. The Appellants have deposited the amount of Rs 30,0000-/- (THIRTY LAKHS) in the Escrow account opened in the name of their advocates Mrs. Nita Mandhyan and Ms Priyanka Thakur with the HDFC Bank Crawford market Branch bearing account no 50100162037833. The said amounts in the bank have been kept in fixed deposit as per the instructions of the the advocates and the interest accrued thereupon shall be handed over to the Appellant.

4. The Appellants state that they have put a public notice as required by Cidco inviting objections for the sale of the said plot on 24.6.2016 through their advocate Amit H.Yelwale and No Objections have been received .The Advocate has also given a letter dated 13.7.2016 stating that no objections have been received. Annexed herewith is the advertisement copy and copy of the letter of the advocate mentioning that no objections have been received.

5. The Respondents have started the work of making arrangements with the Cidco to complete all paper work for executing the Sale Deed for signing of the Tripartite agreement .The papers cannot be processed as the order of “status quo” has been granted by this court. The Parties agree that the paper work for preparing the Triparti agreement will be done immediately on the disposal of this appeal.

6. The parties agree that after the entire paper work is completed with the Cidco The Respondants will intimate the Appellant who will then deposit the entire balance amount of Rs 2,48,00,000 (rupees two crore forty eight lakhs in the Escrow account. Total amount

being Rs 2,78,00,000 (rupees two crore seventy eight lakhs.).

7. The Respondents agree that on the advocates informing them about that the deposit of the entire amount in the account is completed, they will proceed to sign the Agreement for sale, the Tripartite Agreement and get it duly registered with the office of the Sub Registrar.

8. The Parties agree that immediately after the agreement is registered with the Office of the Sub Registrar possession of the plot will be handed over to the Appellants. The Respondents further agree and undertake that the said plot is free of all encumbrances and they will hand over peaceful and vacant possession of the plot to the appellant on the registration of the Agreement

9. The Parties agree immediately on handing over of possession to the Appellant, the advocate for the parties will call upon the bank to release the amounts held in Escrow to the respondents and their Advocate. The amounts will be disbursed by the bank by issuing cheques in the following manner:

a) Raghunath Kaluram Koli Respondent No. 1 Rs. 1,44,28,574 (One crore forty four lakhs twenty eight thousand five hundred and seventy four rupees only.)
Bank of Maharashtra Panvel Ac No. 60058680571
IFSC Code MAHB0000027
MICR Code 400014117

b) Mahadeo Kaluram Koli Respondent No 2 Rs. 59,35,713 (Fifty nine lakhs thirty five thousand seven hundred and thirteen rupees only.)

State Bank of India, C.B.D Belapur Branch

Account No- 10309469297

IFSC Code SBIN0016414

c) *Shivaji Kaluram Koli Respondent No 3 Rs. 59,35,713 (Fifty nine lakhs thirty five thousand seven hundred and thirteen rupees only.)*
State Bank of India, Panvel branch
Account No.- 11035336291
IFSC Code- SBIN0000448.

d) *Priyanka Suresh Thakur*
Rs. 7,50,000/- (Seven lakhs and fifty thousand rupees only.)
IDBI Bank New Panvel (East)
Account No- 0023104000355803
IFSC Code- IBKL0000023.

e) *Dipak M Thakur*
Rs. 7,50,000/- (Seven lakhs and fifty thousand rupees only.)
Abhyudaya C-op Bank Ltd
Account No- SB/ 16903 (018011100016903)
IFSC Code- ABHY006501

10. *The Respondents have executed indemnity bonds (which are annexed herewith) indemnifying the appellants against any claims which may be raised by either their sister or Respondents No. 4 or any other family members of the family.*

11. *The respondents further agree to co-operate and sign all such papers and documents as may be necessary for assisting the Appellant to get the property transferred in their name.*

12. *Appeal From Order 226 of 2014 and Civil application 310 of 2014 and SSC suit no.103of 2012 in the Panvel Court all to stand disposed off on the filing of*

these consent terms and all interim reliefs stand vacated. CIDCO Ltd. could proceed with the matter as our disputes have been settled by the parties concerned.”

3. The Appeal from Order is disposed of in terms of the Consent terms. Parties will place copy of this order along with the Consent terms in the record of the learned City Civil Court Judge. The learned Civil Judge Senior Division, Panvel to pass appropriate order of withdrawal / disposal of the Suit in view of the Consent terms.
4. All parties will act on an authenticated copy of this order.

(N.M. Jamdar, J.)