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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 812/2014 & IAs 3330/2016, 3329/2016**

RAJENDER KUMAR JAIN & ORS Plaintiffs
Through: Mr. Rahul Gupta, Mr. Shekhar Gupta
and Mr. Umang Gupta, Advs.

versus

BAL KISHAN JOHRI & ANR Defendants
Through: Mr. Pulkit Sachdeva, Adv. for D-1 to
D-4 with D-1 & D-3 in person.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **11.03.2016**

IAs 3330/2016, 3329/2016

1. I.A. No. 3329/2016 is an application under Order XXIII Rule 3 CPC, 1908 read with Section 151 CPC, 1908 for recording compromise and for passing decree in terms thereof.

2. I.A. No. 3330/2016 is an application on behalf of the plaintiffs under Order I Rule 10 of CPC, 1908 read with Section 151 CPC for impleadment of Mr. Prakash Johari and Mr. Vikas Johari both sons of Mr. Bal Kishan Johari and both r/o C-23, Green Park Main, New Delhi as defendant Nos. 3 & 4.

I.A.No. 3330/2016 under Order I Rule 10 of CPC, 1908 read with Section 151 CPC

3. It is submitted by Mr. Rahul Gupta, learned counsel for the plaintiffs that the suit has been filed by the plaintiffs for recovery of possession and recovery of damages and compensation in respect of one shop (area 10' X

15'-3" approx.) in property bearing No. 3, Block No. 171, Sunder Nagar Market, New Delhi. He states, that I.A. No. 3330/2016 has been filed because in the written statement filed by defendant Nos. 1 and 2 it has been stated that the two sons of the defendants namely Mr. Prakash Johari and Mr. Vikas Johari have got rights and interest in the suit premises on the basis of facts and circumstances as mentioned in the written statement.

4. In view of the averments made in the application I.A. No. 3330/2016, the application is allowed. Amended memo of parties is taken on record.

Application stands disposed of.

I.A. No. 3329/2016

5. This is an application under Order XXIII Rule 3 CPC, 1908 read with Section 151 CPC, 1908.

6. The application has been signed by the four plaintiffs and four defendants (including the impleaded defendants) and their counsel. The said application is supported by the affidavits of the four plaintiffs and the four defendants. The application is accompanied by memorandum of settlement and compromise dated 09th March, 2016 as Annexure A1 (Colly.) which has been signed by all the plaintiffs and the defendants. The memorandum of settlement and compromise is accompanied by a letter of handing over/taking over of possession (by the defendants to the plaintiffs) dated 09th March, 2016 signed by the plaintiffs and the defendants, in respect of shop premises (area 10' X 15'-3" approx.) on the ground floor of property bearing No. 3, Block No. 171, Sunder Nagar Market, New Delhi alongwith furniture, fixtures and two empty iron safes. The terms of memorandum of settlement and compromise dated 09th March, 2016 reads

as under:-

“1. That the "SECOND PARTY" includes Mr Bal Kishan Johari and his wife Mrs Kusum Johari and their two sons, namely Mr Prakash Johari and Mr Vikas Johari. Mr Bal Kishan Johari and his wife Mrs Kusum Johari are already the defendants in the above suit. Their two sons, namely, Mr Prakash Johari and Mr Vikas Johari are included in the present settlement to make the compromise complete and final in all respects. The parties have also agreed to take necessary steps for their impleadment and joining as proper and necessary parties in the above suit.

2. That the "SECOND PARTY" together are in occupation and possession of the suit premises since 1999-2000 and they have now agreed and accordingly vacated and handed over the vacant and peaceful possession of the suit premises to the "FIRST PARTY". The parties have accordingly signed the letter of "HANDING OVER/TAKING OVER POSSESSION".

3. That the "FIRST PARTY" has agreed to pay a sum of Rs.50.00 Lakh (Rupees Fifty Lakh only) in favour of the "SECOND PARTY" towards the full and final settlement of all the inter se disputes and claims between the parties. The original bank Pay Orders as per details hereunder:

i) Pay Order No. 015981 dated 9/3/16 in the amount of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) in favour of Mr Bal Kishan Johari drawn on HDFC Bank, Sunder Nagar Branch.

ii) Pay Order No. 015982 dated 9/3/16 in the amount of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) in favour of Mrs Kusum Johari drawn on HDFC Bank, Sunder Nagar Branch.

iii) Pay Order No. 015980 dated 9/3/16 in the amount of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) in favour of Mr Prakash Johari drawn on HDFC Bank, Sunder Nagar Branch.

iv) Pay Order No. 015979 dated 9/3/16 in the amount of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) in favour of Mr Vikas Johari drawn on HDFC Bank, Sunder Nagar Branch.

have been already prepared and shown to the "SECOND PARTY" and it is agreed that the said payment shall be handed over to the "SECOND PARTY" on the day of recording of the compromise before the Hon'ble Court.

4. That the "SECOND PARTY" have agreed and undertake that they shall not claim any rights and interest, of any nature whatsoever, in the suit premises.
5. That the "SECOND PARTY" has agreed and they accordingly undertake that they alone were having interest in the suit premises along with one M/s Aabhushan through its proprietor Mrs Kusum Johari and the "SECOND PARTY" agrees and undertakes that neither they nor any other business entity/firm claiming under them shall raise any claims, rights and interest, of whatsoever nature, in respect of the suit premises.
6. That the "SECOND PARTY" has agreed and confirmed to the "FIRST PARTY" that they have cleared and paid all their bills/arrears towards the electricity, telephone and other amenities till the date of vacation and the true copies of the up-to-date paid bills supplied to the "FIRST PARTY" for confirmation. If any dues found later, then the "SECOND PARTY" shall be alone responsible and liable to pay to the authorities.
7. That the present settlement and compromise arrived between the parties shall be fully binding upon Mr Prakash Johari and Mr Vikas Johari who have also signed on the present memorandum and they undertake to appear and make necessary statement at the time of recording of the compromise before the Hon'ble Court.
8. That the present settlement and compromise arrived between the parties is full and final in all respects. The

parties hereinafter, shall be left with no disputes or claims between themselves.”

7. Mr. Rahul Gupta, learned counsel for the plaintiff has tendered the pay orders in terms of para 3 of the memorandum of settlement and compromise dated 09th March, 2016 to the learned counsel for the defendants who has accepted the same in acknowledgment thereof.

8. The parties shall be bound by the terms and conditions of the memorandum of settlement and compromise dated 09th March, 2016, which includes the undertakings.

9. The suit is decreed in terms of the memorandum of settlement and compromise dated 09th March, 2016. Decree sheet be drawn accordingly.

10. The suit and the application are disposed of.

11. No costs.

12. Date 20th July, 2016 already fixed stands cancelled.

V. KAMESWAR RAO, J

MARCH 11, 2016/radhika