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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 642/2015, IAs 1473/2016 & 1472/2016**

SH. SUNEEL GALGOTIA & ORS. Plaintiff
Through: Mr. Sanjeev Narula and Ms. Meha
Rashmi, Advs.
Mr. Suneel Galgotia, P-1 in person.

versus

S. JASDEV SINGH & ORS. Defendant
Through: Mr. Yogender Vasisht, Adv. for D-1 and
Mrs. Alape Kaur along with her attorney Mr.
Mohan Chandra.
Mr. Jasdev Singh, D-1 in person.

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

ORDER
% **02.02.2016**

IA 1473/2016(u/O 1 Rule 10 r/w Sec. 151 CPC)

1. This is an application filed on behalf of Mrs. Alape Kaur, D/o Late S. Rajdev Singh, R/o 224, Jor Bagh, New Delhi-110003 through her attorney Mohan Chandra, duly supported by the affidavits of Mohan Chandra, Suneel Galgotia, plaintiff No. 1, for himself and for plaintiff No. 3 and Ms. Jugnu Galgotia, plaintiff no.2, for herself and plaintiff No. 3.
2. Mrs. Alape Kaur, who is also present in Court has been identified by her counsel Mr. Yogender Vasisht. He has placed on record a photocopy of

the driving licence of Mrs. Alape Kaur bearing No. DL-0319980134855. Mrs. Alape Kaur states that the present application for impleadment has been filed by her attorney on her behalf, with her consent and instructions. She states, she will also file affidavit in support of this application under Order 1 Rule 10 read with Section 151 CPC for her impleadment as a defendant in the suit. The statement of Mrs. Alape Kaur is taken on record. Let the affidavit be filed today. On filing, the same shall be taken on record.

3. It is noted from the application that the suit has been filed for permanent and mandatory injunction by the plaintiffs against the defendants relating to shop no.B-17, Block-B, Connaught Place, New Delhi-110001. It is averred that, defendant no.1 and the applicant namely Mrs. Alape Kaur are the joint owners of the entire property bearing no.B-17, Block-B, Connaught Place, New Delhi-110001.

4. The plaintiffs have entered into an amicable settlement with the defendant no.1 and the applicant Mrs. Alape Kaur as per the memorandum of understanding dated January 22, 2016. It is averred in the application that the applicant being a co-owner of the suit property alongwith defendant no.1 and is a party to the aforesaid settlement/MOU, there is a necessity to implead the applicant as a defendant in the suit for complete and effective

disposal of the suit and for implementation of the terms and conditions of the settlement between the parties relating to the suit property.

5. It is noted from the application, the plaintiffs have no objection for impleadment of Mrs. Alape Kaur, applicant herein as a defendant in the suit. That apart, plaintiff No. 1, who is also present in the Court, acknowledges filing of the application under Order 1 Rule 10 CPC and affidavits in support of the application by the plaintiffs. Accordingly, the present application is allowed. Mrs. Alape Kaur, D/o Late S. Rajdev Singh, R/o 224, Jor Bagh, New Delhi-110003 is impleaded as defendant no. 5 in the present suit. The amended memo of parties is taken on record. The application is disposed of.

IA 1472/2016 (u/O 23 Rule 1 and 3 read with Section 151 CPC)

6. This is a joint application filed by the parties i.e. Suneel Galgotia (as plaintiff No. 1 and partner of plaintiff No. 3), Jugnu Galgotia (as plaintiff No. 2 and also as partner of plaintiff No. 3), S.Jasdev Singh (defendant No. 1), Mohan Chandra, (attorney of Mrs. Alape Kaur, newly added defendant No. 5). Mrs. Alape Kaur (defendant No. 5), who is also present in the Court and identified by her counsel, confirms the signing and filing of the application under Order 23 Rule 1 and 3 read with Section 151 CPC in the

present suit as IA No. 1472/2016 by Mohan Chandra, her attorney, on her behalf with her consent and instructions. She states, the contents of the application have been read and understood by her and the same are true and correct to her knowledge and she has no objection to the recording of the compromise and disposal of the present suit. She also states, she will also file affidavit in support of this application under Order 23 Rule 1 and 3 read with Section 151 CPC for disposing of the suit as compromised in terms of the submissions made in the application. The statement is taken on record. Let an affidavit be filed by Mrs. Alape Kaur today. On filing, the same shall be taken on record.

7. In the application, the averments are as under:

“1. That the present suit for permanent and mandatory injunction instituted by the plaintiffs against the defendants relating to property bearing Shop No. B-17, Block “B”, Connaught Place, New Delhi-110001 is pending adjudication before this Hon'ble Court.

2. That the plaintiffs have claimed relief in the present suit only against defendant No.1, whereas defendants No.2 to 4 are proforma defendants.

*3. That the plaintiffs have entered into an amicable settlement with defendant No.1 and Mrs. Alape Kaur (joint Owners of property bearing No. B-17, Block-B, Connaught Place, New Delhi) as per the terms and conditions mentioned in Memorandum of Understanding dated 22.01.2016 duly executed by defendant No.1 and Mrs. Alape Kaur as the Owners/First Party and the plaintiffs as the Second Party. True copy of the Memorandum of Understanding (MOU) dated 22.01.2016 is filed herewith as **Annexure-A**.*

4. That since said Mrs. Alape Kaur is the Co-owner of suit property alongwith defendant no.1 and is a party to the aforesaid settlement/MOU, therefore she is also sought to be impleaded as a defendant in this suit, for which a separate application under Order 1

Rule 10 CPC is being filed with this application supported by no-objection affidavit on behalf of Mrs. Alape Kaur for her impleadment as a defendant in this suit. Consequently, an amended memo of parties is also being filed with this application.

5. That plaintiff no.1 & 2 have represented and declared that they are the only partners of plaintiff no. 3 i.e. E. D. Galgotia & sons which they have claimed to be their partnership firm and except the plaintiffs no. 1 & 2 no one else has any concern with plaintiff no.3 in any manner whatsoever. The plaintiffs no.1 & 2 have further represented and declared that neither Mr. Neeraj Galgotia nor anyone else from the family of or as a children/legal heir of Late Sh. P. D. Galgotia or in the name of E. D. Galgotia & Sons have any right, title or interest qua property no. B-17, Block-B, Connaught Place, New Delhi-110001 or any portion thereof or against its owners.

6. That the defendant no.1 and said Mrs. Alape Kaur are the joint owners of the entire property bearing no. B-17, Block-B, Connaught Place, New Delhi-110001 which comprises of Ground Floor area measuring 1368 Sq. Feet and a complete mezzanine floor therein.

7. That the plaintiffs no. 1 and 2 are in exclusive possession of a portion of ground floor of the said property measuring about 400 Sq. Ft. and mezzanine floor. Rest of the portion of the said property is exclusively in physical occupation, possession and control of defendant no.1 and Mrs. Alape Kaur pursuant to a mutual Settlement arrived on 5th March, 2015 between defendant nos. 2 to 4 with defendant no. 1 and Mrs. Alape Kaur.

8. That pursuant to the aforesaid MOU dated 22.01.2016, the plaintiffs have agreed to vacate and handover actual vacant and peaceful physical possession of the entire portion measuring 400 Sq. Ft. on the ground floor and entire mezzanine floor of the suit property i.e. Shop bearing no. B-17, Block-B, Connaught Place, New Delhi-110001, in their possession as claimed in the present suit, to defendant no.1 and Mrs. Alape Kaur subject to payment of a total amount of Rs.4,50,00,000/- (Rupees Four Crore Fifty Lakhs Only) by defendant no.1 and Mrs. Alape Kaur to plaintiffs No.1 and 2, which has been agreed to be paid in the following manner:-

a) Rs.3,00,00,000/- (Rupees Three Crore Only) by way of Demand Drafts i.e. Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only) in favour of Plaintiff no.1 namely Mr. Suneel Galgotia and remaining Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh Only) in favour of Plaintiff no.2 namely Mrs. Jugnu Galgotia. Both the demand drafts shall be valid for payment w.e.f. the date when statement of parties are recorded in court at the time of hearing of this application and disposal of present suit.

b) Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only) by way of account payee cheques i.e. Rs.75,00,000/- (Rupees Seventy Five

Lakhs Only) in favour of Plaintiff no.1 namely Mr. Suneel Galgotia and remaining Rs.75,00,000/- (Rupees Seventy Five Lakhs Only) in favour of Plaintiff no.2 namely Mrs. Jugnu Galgotia. Both the said cheques shall be dated 30th September, 2016.

All the aforesaid demand drafts and cheques shall be handed over to plaintiffs when statement of parties are recorded in court at the time of hearing of this application and disposal of the present suit.

9. *That simultaneously upon handing over of aforesaid demand drafts and cheques in court to the plaintiffs, the plaintiffs shall handover actual vacant and peaceful physical possession of the entire portion of the ground floor and mezzanine floor of the suit premises i.e. Shop bearing no. B-17, Block-B, Connaught Place, New Delhi-110001, in their possession as claimed by plaintiffs in the present suit to the defendant no.1 and Mrs. Alape Kaur or their authorised representative(s). In order to facilitate the handing over of vacant physical possession of suit property to defendant no.1 and Mrs. Alape Kaur in court, the plaintiffs have agreed to remove all their belongings, furnitures, books, stocks etc., from the suit property and ensure that nothing belonging to plaintiffs remains in the suit property or any portion thereof, before receiving the aforesaid demand drafts and cheques in court. The actual vacant and peaceful physical possession of suit property shall be handed over by plaintiffs on "as is where is basis" relating to its physical condition and defendant no.1 and Mrs. Alape Kaur shall not have any claims against plaintiffs relating to physical condition of suit property.*

10. *That the Plaintiffs shall also execute a separate letter of delivery of vacant physical possession of the suit property and hand over the same to defendant no.1 and Mrs. Alape Kaur or their authorised representative, at the time of receiving the aforesaid demand drafts and cheques.*

11. *That the aforesaid amount has been agreed to be paid to plaintiffs as full and final settlement of all their alleged rights, titles, interests and claims relating to the said property bearing Shop No. B-17, Block-B, Connaught Place, New Delhi-110001. The defendant no.1 and Mrs. Alape Kaur assures the plaintiffs and undertakes to this Hon'ble Court that the aforesaid post dated cheques would be duly honoured on presentation on their due dates. In case of dishonour of any of the said post dated cheques, the defendant no.1 and Mrs. Alape Kaur shall be liable for all legal consequences.*

12. *That upon handing over of the aforesaid demand drafts and cheques to plaintiffs and simultaneous handing over of actual, vacant and peaceful physical possession of the suit premises by plaintiffs to defendant no.1 and Mrs. Alape Kaur as aforesaid, the plaintiffs will not be left with any right, title, interest or claims of any nature whatsoever*

against the defendants or the said property bearing Shop No.B-17, Block-B, Connaught Place, New Delhi or any portion thereof. The defendant No.1 and Mrs. Alape Kaur being the lawful joint Owners of the said property shall be fully authorized and entitled to deal with the said entire property as per their own discretion and convenience without any kind of interference, hindrance, obstructions, disputes, litigations from the plaintiffs in any manner whatsoever.

13. That plaintiffs further unconditionally accept the mutual settlement already arrived between defendant no. 2 to 4 and defendant no.1 and Mrs. Alape kaur on 5th March, 2015 relating to the portion of said property which is now in exclusive possession and control of defendant no.1 and Mrs. Alape Kaur. All objections raised by plaintiffs against the said settlement by way of pleadings in the present suit or otherwise are hereby withdrawn, given up and waived forever and the plaintiffs hereby declare that they have no objections nor have any rights, interest or claims in respect of the portion of said property already in exclusive possession of defendant no.1 and Mrs. Alape Kaur on the basis of Mutual Settlement arrived on 5th March, 2015 between defendant nos. 2 to 4 and defendant no.1 and Mrs. Alape Kaur as aforesaid. Plaintiffs declare and undertake that they shall never indulge in any litigation or dispute with defendant no.1 and Mrs. Alape Kaur relating to said property or any part thereof in any manner whatsoever.

14. The plaintiffs further undertake to indemnify and keep harmless defendant no.1 and Mrs. Alape Kaur from any third party claims, disputes or litigations in any manner whatsoever in respect of the aforesaid property or any portion thereof. The plaintiffs accept and undertake that they shall be liable for the actual losses or damages which may be suffered by defendant no.1 and Mrs. Alape Kaur, if any third party claims, disputes or litigations are raised/filed by anyone including Mr. Neeraj Galgotia or anyone claiming to be from the family of or as children/legal heirs of Mr. P. D. Galgotia or in the name of E. D. Galgotia & Sons, relating to said property or any portion thereof or against its owners.

15. That in view of the mutual settlement as per the aforesaid MOU dated 22.01.2016 and statements made in this application, all pending litigations between the parties to this settlement relating to suit property shall be unconditionally withdrawn from the concerned courts. After disposal of this suit, all disputes and claims of respective parties to the settlement stands mutually settled and they undertake not to indulge in any further litigation or dispute against each other with respect to the aforesaid property or any part thereof, in any manner whatsoever.

16. That in view of the above, it is submitted that present suit may be disposed off as compromised as per the terms of MOU dated

22.01.2016 (Annexure-A) and aforesaid submissions, statements and undertakings made in this application and further pray that the interim order dated 09.03.2015 may be vacated.

17. That the present application has been signed and filed by plaintiffs and defendant no.1 alongwith Mrs. Alape Kaur (proposed defendant) alongwith their respective affidavits voluntarily without any kind of force, duress, compulsion, undue influence, misrepresentation, mistake or otherwise and they undertake to remain bound by the terms and conditions of MOU dated 22.01.2016 as well as bound by each and every statement, undertaking and declarations made in this application”.

8. In terms of paras 8, 8a and 8b, the defendant no.1 and defendant no.5 have tendered two demand drafts, bearing no.057712 in favour of Ms. Jugnu Galgotia (plaintiff No. 2) for Rs.1,50,00,000/- drawn on Punjab National Bank, 74, Janpath, New Delhi dated 27.1.2016 and bearing no.057711 in favour of Mr. Suneel Galgotia (plaintiff No. 1) for Rs.1,50,00,000/- drawn on Punjab National Bank, 74, Janpath, New Delhi dated 27.1.2016.

9. They have also tendered two post dated cheques bearing nos.995611 and 995610 dated September 30, 2016 of Punjab National Bank in favour of Ms.Jugnu Galgotia (plaintiff No. 2) and Mr. Suneel Galgotia (plaintiff No. 1) . Photocopies of the same are taken on record, after being certified as true copy by Mr.Yogender Vashisht, Adv.

10. Learned counsel for the plaintiffs states that Mr. Suneel Galgotia, plaintiff No. 1 and Ms. Jugnu Galgotia, plaintiff No. 2 have received the said drafts and post dated cheques and have given the receipt in token thereof on

their behalf and on behalf of the plaintiff no.3. Photocopy of receipt of payment is kept on record, after being certified as true copy by Mr.Yogender Vashisht, Adv. They have also given a letter of delivery of possession of the property in question. Photocopy of letter of delivery of possession is placed on record, after being certified as true copy by Mr.Yogender Vashisht, Adv.

11. The learned counsel for the plaintiffs has handed over the key of the property in question. The application is allowed.

12. The suit is disposed of as compromised in terms of the Memorandum of Understanding dated January 22, 2016 and on the basis of the submissions, statements, undertakings, declaration made in the application, which are noted above, and duly supported by affidavits. The parties shall be bound by the same. It is made clear that interim order dated March 9, 2015 stands vacated.

13. Parties to bear their own costs.

14. The date February 17, 2016 stands cancelled.

V. KAMESWAR RAO, J

FEBRUARY 02, 2016
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