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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 880/2015
JYOTI GUPTA Plaintiff
Through Mr. Vikas Arora with Mr. Mohit Taneja
Advocates
versus
VISHAL KAUSHIK Defendant
Through Ms. Garika Sharma, Advocate along with
Defendant in person.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI

ORDER
% **07.11.2016**

Plaintiff has filed the present suit for recovery of Rs. 96,80,000/- along with the *pendente lite* and future interest.

In this case, as per the plaintiff, the plaintiff had advanced a sum of Rs. 40 lacs to the defendant. As per the plaintiff, the parties had entered into an agreement to sell for the upper ground floor of the property bearing No. C-59, Janta Garden, Pandav Nagar, New Delhi -110 091.

The Bayana agreement was executed between the plaintiff and the defendant for a total sale consideration of Rs. 70 lacs, out of which, the plaintiff claims to have paid Rs. 40 lacs to the defendant in the following manner.

Rs. 15,00,000/- paid in cash.

Rs. 25,00,000/- transferred through RTGS.

Subsequently, the defendant approached the plaintiff and sought cancellation of the agreement and agreed to return the sum of Rs. 40 lacs. Since the amount was not paid and the property has been sold, the present suit has been instituted.

By an order of this Court dated 29.09.2015, the defendant was directed to furnish the bank guarantee in the sum of Rs. 40 lacs. In the

subsequent order dated 11.01.2016, while noting the conduct of the defendant, this Court directed the defendant to deposit Rs. 40 lacs with the Registrar General of this Court. Till date, neither the orders have been complied with nor the orders were assailed.

By an order dated 15.02.2016, a fresh contempt was directed to be registered against the defendant. Thereafter, by an order dated 11.05.2016, this Court had directed sale of the property bearing No. C-59, Janta Garden, Pandav Nagar, New Delhi, by public auction.

Today, parties are present in Court. The matter was passed over once to enable the parties to explore the possibility of an amicable settlement.

On the second call, counsels for the parties submit that they have entered into an amicable settlement. Defendant who appears in person had confirmed the same.

The defendant has explained that previous orders could not be complied with as he had to undergo an angiography and thereafter angioplasty, from J P Hospital, Noida.

The parties have settled the matter on the following agreed terms :-

The defendant agrees to pay the plaintiff a sum of Rs. 55 lacs in the following manner :-

By 20.12.2016 : Rs. 10 lacs

Rs. 10 lacs, each month commencing from 20.12.2016 and the balance amount of Rs. 5 lacs on or before 20.05.2017.

It is also agreed that the present suit may be decreed in favour of the plaintiff and against the defendant. The defendant will pay Rs. 55 lacs in the above terms.

It is agreed that on two consecutive defaults, the plaintiff would be entitled to execute the decree.

The suit is decreed in the sum of Rs. 40 lacs with interest @ 18% with effect from 25.04.2013.

The settlement which has been arrived at would also be treated as an undertaking to the Court.

The defendant who himself is a lawyer, knows the consequences of the breach of the agreement.

In view of the settlement having been made, the plaintiff would make efforts in getting the FIR registered against the defendant quashed after the entire payment is made, in terms of the settlement.

The contempt is also dismissed. The original sale deed brought by the defendant today has been seen and returned. The defendant also undertakes that he would maintain status quo with regard to the first floor of the property in question. He also undertakes that he will not sell, alienate or transfer or part with the possession thereof. Parties will sign the order in token of acceptance.

The suit is decreed in the sum of Rs. 40 lacs with interest @ 18% with effect from 25.04.2013.

The decree sheet be drawn up accordingly.

G.S.SISTANI, J.

NOVEMBER 07, 2016

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