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

+ CS(COMM) 691/2016 and I.A. Nos.7557/2016 (for early hearing),
7558/2016 (under Order 6 Rule 17 CPC), 7128/2016 (stay),
7129/2016 (under Order 2 Rule 2 CPC) & 7130-31/2016 (exemption)

ROOTS CORPORATION LIMITED

..... Plaintiff

Through: Mr. P.V.Kapur, Senior Advocate with
Mr. Ajit Warriar, Advocate, Mr.
Sandeep Grover, Advocate, Mr.
Dushyant Manocha, Advocate, Mr.
Anish Gupta, Advocate, Mr. Aditya
Nayyar, Advocate and Ms. Shreya
Munoth, Advocate.

versus

SHRI VENKETESHWARA BUILDTECH PVT.LIMITED Defendant.

Through: Mr. Y.P. Narula, Senior Advocate
with Mr. Ajay Brahme, Advocate and
Mr. Pradeep Kar, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **04.06.2016**

1. Disputes in the present suit concern contractual relationship between the plaintiff as a proposed lessee and defendant as a proposed lessor of a building constructed on a property No. 46/1-A, Block H, Sector 63, Noida, U.P. On this property, a constructed building existed and the same was to be renovated to the requirements of a hotel which the plaintiff was to

run after taking a lease from the defendant. Disputes and differences arose between the parties, and this Court need not elaborate all such disputes, inasmuch as, parties ably guided by their counsels have brought about a compromise, by allowing bygones be bygones, and also that to the extent possible, a watertight contractual relationship which will govern the parties in future be recorded as per the terms and conditions in the present order.

2. Counsels for the parties as also the parties were heard on 1.6.2016 and yesterday i.e 3.6.2016. In spite of today being a holiday, the matter was listed today as per the joint request made by the parties inasmuch as disputes were more or less settled and what remained was ironing out of certain creases and fine tuning of certain clauses. I am happy to note that this has been achieved between the parties and whatever issues remained have been sorted out during the course of today's hearing.

3. Accordingly, the suit is disposed of and the contractual relationship between the parties henceforth will be as per the following consent and agreed terms:-

(I) The contractual terms which will be incorporated in the lease deed to be signed in terms of the present order will incorporate the terms of Letter of Intent (LOI) dated 29.3.2015, but without reference to the LOI and subject

to the limited modifications of the terms stated in the LOI which are stated hereinafter in the present consent order.

(II) Lease deed will contain the terms of the LOI but it is the lease deed hereafter to be entered into which will govern the future relationship between the parties and anything which is stated in the LOI will no longer govern the relationship between the parties.

(III) With respect to the following terms, the LOI is amended, and consequently for those clauses of the LOI which are changed and amended, and accordingly to be incorporated in the lease deed which is now to be executed:-

(i) The security deposit which will be payable by the plaintiff to the defendant will be a sum of Rs.4.55 crores.

(ii) The lease rental will be Rs.30 lacs per month.

(iii) Increase of rent will be 20% after every five years with the five year period commencing either on the execution of the lease deed between the parties within a period of 21 days of passing of the present order or handing over of the possession within 21 days by the defendant to the plaintiff of the suit property on as is where is basis, whichever is earlier.

(iv) All other terms of the LOI will remain intact and will be

incorporated in the lease deed to be now executed and which terms will be the terms of the lease deed which will govern the contractual relationship between the parties without any reference or entitlement of the parties to refer to the terms of the LOI dated 29.3.2015.

(v) Within a period of 21 days from today, parties will enter into a lease deed of the constructed building on the suit property and register the same. Plaintiff specifically agrees that the property which will be taken on lease is on as is where is basis. It is also agreed between the parties that those terms of the lease deed which are not found in the LOI dated 29.3.2015, and which are incorporated in the lease deed, will be those terms as found in law including the terms governing a lessor and lessee as per the provisions of the Transfer of Property Act, 1882.

(vi) It is agreed that defendant has already taken the following licences/permissions/consents of the appropriate authorities and the plaintiff does not press for any other licenses or permissions etc from the defendant as a requirement for execution of the lease deed, or for taking over possession on as is where is basis, though, the plaintiff can always seek any other permissions/licenses/consents etc which it may require for the purpose of effectuating the lease deed or for the purpose of running of the hotel on

the suit premises. These consents/permissions/licences which the defendant has already got, and photocopies of which will be handed over to the plaintiff through counsel within a period of one week from today, are as under:-

- (a) Pollution consent;
- (b) Fire NOC;
- (c) Completion certificate
- (d) Approved revised/completion drawings
- (e) Electrical load sanction and meter sealing certificate
- (f) NOC for DG sets
- (g) Lift NOC
- (h) Receipt of property tax paid upto 31st March, 2017
- (i) 'As-built' drawings of the building
- (j) Permanent water connection receipt
- (k) Structural stability certificate

Giving of photocopies of the aforesaid permissions/licenses/consents is limited till date of execution of the lease deed between the parties and if the lease deed between the parties is not executed and registered, then the photocopies given to the plaintiff with respect to the

permissions/licenses/consents will be treated as null and void in case either possession is not received by the plaintiff or the lease deed in terms of the present order is not executed and registered, the plaintiff will not be entitled to act upon and take benefit of the same.

(vii) Within a period of 21 days from today, parties will enter into a lease deed as per the terms of the present consent order and register the same. Of course, once the possession is handed over to the plaintiff or lease deed is executed and registered, originals of the aforesaid licences/permissions/consents will be handed over by the defendant to the plaintiff except the completion certificate and property tax receipts, and for which only certified and attested copies of the same as certified and attested by the defendant will be given to the plaintiff.

(viii) In case the lease deed is not entered into within 21 days from today for any reason whatsoever, then in such a case, in case the defendant is ready to handover possession and hands over possession of the suit premises to the plaintiff, then, plaintiff will simultaneously to the taking over of possession pay the security deposit amount as stated in the present order and also commence payment of the lease rent to the defendant from such date of receiving possession as per the terms of the present consent

order. Of course, this would not mean that the lease deed subsequently would not be executed and registered between the parties as per the terms already stated in the present order.

(ix) Charges of execution and registration of the lease deed, including towards stamp duty, will be shared equally by the plaintiff and the defendant.

(x) All rights and liabilities of the parties arising till date from the contractual relationship of the parties or consequences till date which arise from law and on account of the LOI dated 29.3.2015 will stand merged and satisfied in terms of the present order and all the rights and liabilities of the parties will henceforth only arise in terms and pursuant to the present order and the lease deed hereafter to be executed. It is clarified that termination letter dated 2.6.2016 of the LOI issued by the defendant to the plaintiff will get merged and satisfied as per the agreed terms of this consent order.

(xi) Parties agree to strictly abide by the terms as contained in the present order, and if the terms contained in the present order for any reason of force majeure, do not go through, then, the relationship between the parties as per the terms of the present order will come to an end.

4. The suit and all the pending applications will stand disposed of

as compromised as per the terms stated in the present order and representatives of both the plaintiff and the defendant, as also their counsels, have signed the present order in token of acceptance of the terms by consent, and as stated in the present order.

5. Copy of this order be given dasti to counsels for the parties under the signature of the Court Master.

VALMIKI J. MEHTA, J

JUNE 04, 2016

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