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

+ **CS(OS) 359/2016**

KAKS AND BILLS PVT LTD & ORS Plaintiffs

Through: Mr. Ravi Sikri, Sr. Adv. with Mr. P.
Chaitanyashil & Mr. Deepank Yadav,
Advs.

Versus

MRS DIYA CHAWLA & ANR Defendants

Through: Dr. Aman Hingorani, Adv. for D-1.
Mr. Tanuj Khurana, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **07.12.2016**

1. The plaintiffs instituted this suit *inter alia* for recovery of possession of the second floor of property No.N-5, Kailash Colony, New Delhi from the two defendants.
2. Though the said property is owned by the plaintiff no.1 Kaks & Bills Pvt. Ltd. but its only Directors Mr. Subhash Chander Chawla and Mrs. Nigam Chawla are the father-in-law and mother-in-law of the defendant no.1 Mrs. Diya Chawla and the father and mother of the defendant no.2 Mr. Samir Chawla.
3. The defendants Mrs. Diya Chawla and Mr. Samir Chawla were residing on the said second floor of property No.N-5, Kailash Colony, New Delhi as the daughter-in-law and son of the plaintiffs No.2&3.
4. Disputes and differences have now erupted between the defendant No.1 Diya Chawla and her husband defendant No.2 Samir Chawla and which led to the filing of this suit.

5. Though the parties were on the last date of hearing referred to the Mediation Cell of this Court and mediation is reported to have remained unsuccessful but the counsels state that they have thereafter attempted and have succeeded in making all the parties agree to nip the disputes in the bud.

6. The plaintiff No.2 Subhash Chander Chawla, defendant no.1 Mrs. Diya Chawla and defendant no.2 Mr. Samir Chawla, as identified by their respective counsels, are present in the Court and desire the compromise to be recorded in this Court and state that they have decided to settle all the disputes and differences subject matter of the present suit as well as relating to the marriage of the defendant no.1 Diya Chawla and defendant no.2 Samir Chawla and the custody of their only male child aged about 15½ years on the followings terms:

- (i) That the defendants no.1&2 i.e. Mrs. Diya Chawla & Mr. Samir Chawla have decided to dissolve their marriage by a decree for divorce by mutual consent and have agreed to file the application under Section 13B(1) of the Hindu Marriage Act, 1955 on or before 22nd December, 2016.
- (ii) That the defendant no.2 Mr. Samir Chawla has agreed to settle all entitlements of the defendant no.1 Mrs. Diya Chawla of maintenance, alimony, *istri dhan* and whatsoever else by a lumpsum payment of Rs.3 crores which has been agreed to be deposited in this Court on or before 22nd December, 2016.
- (iii) The said amount of Rs.3 crores be kept by the Registry of this Court in a maximum interest bearing account.

- (iv) The defendant no.1 Mrs. Diya Chawla shall vacate the second floor of property no.N-5 Kailash Colony, New Delhi and deliver vacant peaceful physical possession thereof to the plaintiffs immediately upon receipt of communication from the counsel for the defendant no.2 Mr. Samir Chawla of deposit of Rs.3 crores in this Court with proof thereof.
- (v) Out of the sum of Rs.3 crores so deposited, a sum of Rs.1.50 crores shall be released in favour of the defendant no.1 Mrs. Diya Chawla immediately after recording of the statements of the defendants no.1&2 Mrs. Diya Chawla & Mr. Samir Chawla in support of the first motion for a decree of divorce by mutual consent and on production of the certified copy of the order thereof.
- (vi) The learned District Judge / Additional District Judge before whom the parties have their statements aforesaid recorded is requested to furnish a copy of the statements and the order under signatures of the Reader of the Court on the date of the recording of the statements itself.
- (vii) The defendants no.1&2 Mrs. Diya Chawla & Mr. Samir Chawla have agreed to immediately, within seven days of the expiry of the six months from the first motion aforesaid, apply for the second motion under Section 13B(2) of the Hindu Marriage Act and the balance 50% of the amount of Rs.3 crores i.e. Rs.1.5 crores deposited in this Court along with interest if

any accrued thereon shall be released to the defendant no.1 Mrs. Diya Chawla immediately on production of the order / decree of divorce by mutual consent.

- (viii) If for reasons attributable to the defendant no.2 Mr. Samir Chawla, the first motion for divorce by mutual consent is not filed on or before 22nd December, 2016, the defendant no.1 shall be entitled to apply to this Court for release to her of the entire sum of Rs.3 crores immediately.
- (ix) Similarly, in the event of the second motion for divorce by mutual consent being not filed within the time aforesaid for reasons attributable to defendant No.2 Mr. Samir Chawla, the defendant no.1 Mrs. Diya Chawla shall immediately be entitled to apply to this Court for release of the balance amount with interest.
- (x) If either of the two motions for divorce by mutual consent is not filed within the time agreed, for reasons attributable to the defendant no.1 Mrs. Diya Chawla, she would then forfeit the right to maintenance, alimony, *istri dhan* or claim of any nature against the defendant no.2 Mr. Samir Chawla as well as against the plaintiffs no.2&3 Mr. Subhash Chander Chawla & Mrs. Nigam Chawla and shall also be liable to be evicted in execution of the decree passed in this suit for her eviction from the second floor of property no.N-5 Kailash Colony, New Delhi. In such eventuality the defendant no.2 Mr. Samir

Chawla shall also be entitled to withdraw the amount / the remaining amount deposited in this Court and to sue for divorce on such grounds as may be available to him.

- (xi) The defendant no.1 Mrs. Diya Chawla and defendant no.2 Mr. Samir Chawla shall be in joint guardianship of their only minor male child aged about 15½ years. However, the said child shall reside with the father defendant no.2 Mr. Samir Chawla and the mother defendant no.1 Mrs. Diya Chawla shall have free access to the child without however visiting the child at the residence of the plaintiffs no.2&3 Mr. Subhash Chander Chawla & Mrs. Nigam Chawla and the defendant no.2 Mr. Samir Chawla. It is further agreed that the child has a Cell Phone No.9953020102, the number whereof shall not be changed and the defendant no.1 Mrs. Diya Chawla shall be entitled to contact the child at all hours and the child shall also be entitled to, on holidays, travel with the defendant no.1 or as per the school calendar reside with the defendant no.1 Mrs. Diya Chawla.
- (xii) It is further agreed that all major decisions as to health and education of the child shall be taken jointly by the defendants no.1&2 Mrs. Diya Chawla & Mr. Samir Chawla in the best interest of the child.
- (xiii) It is yet further agreed that Mrs. Diya Chawla will withdraw the proceeding under the Protection of Women from Domestic Violence Act, 2005 initiated by her. All parties have also assured each other that they have not filed any other

proceeding, complaint against each other and will not hereafter file any proceeding/complaint save in enforcement of what is agreed herein.

7. The plaintiff no.2 Mr. Subhash Chander Chawla for himself and on behalf of the plaintiff no.3 Mrs. Nigam Chawla and the defendant no.1 Diya Chawla and the defendant no.2 Mr. Samir Chawla undertake to this Court to abide by the aforesaid compromise and have been explained the consequences of breach of undertaking given to the Court.

8. The undertakings of the parties are accepted and the parties are ordered to be bound therewith.

9. A decree is accordingly passed in favour of the plaintiffs and against the defendant no.1 Diya Chalwa of recovery of possession of the ground floor of property no.N-5, Kailash Colony, New Delhi. However the said decree will be inexecutable if the defendant no.2 Mr. Samir Chawla does not deposit the sum of Rs.3 crores in this Court within the time aforesaid.

10. The parties are left to bear their own costs.

Decree sheet be prepared. This order to form part of decree sheet.

RAJIV SAHAI ENDLAW, J.

DECEMBER 07, 2016

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