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

+ **CS(OS) 1266/2015**

CHARANJIT SINGH BAKSHI & ANR Plaintiff

Through : Mr.Kshitiz Ahuja and Mr.Kush
Sharma, Advs. along with plaintiffs.

versus

VIVEK GUPTA Defendant

Through : Mr.P. Bashista, Adv. along with
defendant.

+ **CS(OS) 4066/2015**

PANKAJ MONGIA Plaintiff

Through : Mr.Dhanesh Relan, Adv.

versus

DAVINDER PAL SINGH & ANR Defendants

Through : Mr.P. Bashista, Adv. along with
defendant.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

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04.11.2016

1. Since the parties had expressed their desire for an amicable settlement on 02.11.2016, file of CS(OS) 4066/2014 filed by one, Sh.Pankaj Mongia, against Sh.Davinder Pal Singh, Sh.Charanjit Singh, Sh.Vivek Gupta (parties in CS(OS) 1266/2015), Sh.Manik Sethi and Sh.Anshul Sethi has been called and transferred to this Court. Resultantly, with the

consent of the parties, through counsel including the counsel of Sh.Pankaj Mongia, this Court vide order dated 2.11.2016 had directed the Registry to transfer Civ DJ No.608735/2016 titled as *Pankaj Mongia v. Shri Davinder Pal Singh & Anr.*, pending in the Court of Manjusha Wadhwa, Additional District Judge-08, West District, Delhi, to this Court. The file of the aforesaid case has been received and listed in typed Supplementary List and is being taken up along with the old matter CS(OS) 1266/2015.

2. Parties in CS(OS) 1266/2015 are present in Court along with their respective counsel. They are duly identified by their respective counsel. Sh.Pankaj Mongia, plaintiff in CS(OS) 4066/2014, is also represented by Mr.Dhanesh Relan, Advocate. Mr.Relan submits that his client, Sh.Pankaj Mongia, is abroad and he has received an email authorising him to enter into an amicable settlement with the parties to both the suits and, thus, he is fully competent to enter into a settlement.
3. Before the settlement of the parties can be recorded, it may be noticed that the plaintiffs in CS(OS) 1266/2015 had entered into an Agreement to Sell dated 11.8.2011 with the defendant, Mr.Vivek Gupta, with respect to the property bearing no.A-1/272, Second Floor, Janak Puri, New Delhi (hereinafter referred to as '*the suit property*') for a total sale consideration of Rs.3,02,51,000/-, out of which the plaintiff paid Rs.1,15,00,000/- to the defendant in the following manner:
 - i. Rs.50,00,000/- on 11.8.2011 at the time of signing the Agreement to Sell.
 - ii. Rs.25,00,000/- on 11.11.2011 when the old building was demolished.
 - iii. Rs.15,00,000/- on 12.4.2012.
 - iv. Rs.10,00,000/- on 20.4.2012 at the time of casting of fifth

slab of lantern.

v. Rs.15,00,000/- on 19.10.2012.

4. Since the sale transaction could not be completed by the defendant Sh.Vivek Gupta, the plaintiffs/purchaser have filed CS(OS) 1266/2015 for recovery.
5. As per the plaintiffs in CS(OS) 1266/2015, they were ready and willing to complete their part of the agreement but the defendant, Sh.Vivek Gupta, had sold the suit property to another person even before the last date of making the payment.
6. The case of the defendant, Sh.Vivek Gupta, is that he had only entered into a transaction with his nominee and he was always ready and willing to comply with the terms of the Agreement to Sell dated 11.8.2011 as the nominee was well-aware of the Agreement to Sell dated 11.8.2011.
7. Another important aspect of both these matters is that the plaintiffs in CS(OS) 1266/2015 had entered into another Agreement to Sell dated 17.8.2011 with Sh.Pankaj Mongia, plaintiff in CS(OS) 4066/2014, with respect to the suit property for a total sale consideration of Rs.3,19,50,000/-, out of which Sh.Pankaj Mongia paid a sum of Rs.1,20,00,000/- to the plaintiffs. Since the deal could not be completed, Sh.Pankaj Mongia filed CS(OS) 4066/2014 before this Court against Sh.Charanjit Singh Bakshi and Sh.Davinder Pal Singh, plaintiffs in CS(OS) 1266/2015, and Sh.Vivek Gupta, defendant no.3 in CS(OS) 1266/2015. It is in this background that the suit filed by Sh.Pankaj Mongia, being CS(OS) 4066/2014, has been transferred to this Court with the consent of all the parties.
8. After some hearing in the matter, learned counsel for the parties submit that the parties have arrived at an amicable settlement on the following

agreed terms:

- i. The amount paid by Sh.Vivek Gupta, defendant in CS(OS)1266/2015, would be considered as the amount paid to the plaintiffs in CS(OS)1266/2015 as Sh.Pankaj Mongia has sought recovery from the plaintiffs in CS(OS)1266/2015.
- ii. The defendant, Sh.Vivek Gupta, agrees and undertakes to pay to Sh.Pankaj Mongia Rs.1,45,00,000/-, in equal monthly installments, within three months from today, in full and final settlement of all claims of both the suits. In case, the amount is not paid within three months, the balance amount shall carry interest at the rate of 6% per annum and the balance amount, together with interest, will be paid in equal monthly installments but not later than ten months from today. For the ten months, the complaint(s) filed by Sh.Pankaj Mongia will not be pursued.
- iii. Upon receipt of the balance amount, Sh.Pankaj Mongia will have no right in the suit property.
- iv. The suit filed by Sh.Pankaj Mongia [CS(OS) 4066/2014] stands decreed in the total sum of Rs.1,45,00,000/- with interest at the rate of 12%, per annum, from the date of filing of the suit till the date of realisation.
- v. In case, the defendant, Sh.Vivek Gupta, complies with the terms of the settlement, the decree will stand satisfied on the agreed terms. It is also agreed that in case of two consecutive defaults, the plaintiffs will be entitled to execute the decree. In case of two consecutive defaults it would be open for the parties to pursue their complaint(s).

- vi. Upon receipt of the entire amount, both the plaintiffs in CS(OS)1266/2015 and CS(OS)4066/2014 will withdraw their criminal complaint(s).
- vii. It is also made clear that no party will claim any right over Rs.5,00,000/- received by Sh.Charanjit Singh Bakshi and Sh.Davinder Pal Singh, plaintiffs in CS(OS) 1266/2015, through Sh.Pankaj Mongia or any other party to the present suits.
9. In view of the decree passed in CS(OS) 4066/2014 filed by Sh.Pankaj Mongia, counsel for plaintiffs Sh.Charanjit Singh Bakshi and Sh.Davinder Pal Singh, plaintiffs in CS(OS) 1266/2015, withdraws CS(OS) 1266/2015.
10. Accordingly, CS(OS)4066/2014 filed by Sh.Pankaj Mongia stands decreed and CS(OS) 1266/2015 filed by Sh.Charanjit Singh Bakshi and Sh.Davinder Pal Singh, stands dismissed as withdrawn in view of the settlement arrived at between the parties.
11. Since the matter has been resolved through mediation of the Court, the plaintiffs in CS(OS)1266/2015 and CS(OS) 4066/2014 shall be entitled to refund of Court fee. Let a necessary certificate be issued to the plaintiffs.
12. Court appreciates the efforts put in by both the counsel for the parties and the parties in early resolution of the matter.

G.S.SISTANI, J

NOVEMBER 04, 2016

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