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

\+ CS(OS) 3569/2014 & IAs No.23157/2014 and 2276-77/2016

M/S MANGLAYATAM PROJECTS PVT LTD ..... Plaintiff

Through : Mr. V.P. Rana, Advocate with
Mr. Ankush Jain, Director of plaintiff in person.

versus

DHARAM VEER SINGH (SINCE DECEASED) THR LRS & ANR
..... Defendants

Through : Mr. Kamal Mehta, Advocate
for D-1(a), (b) & (c).

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

O R D E R

% **01.09.2016**

1. The present suit has been instituted by the plaintiff praying *inter alia* for a decree of specific performance against the defendants, in respect of an Agreement to Sell dated 30.11.2012, executed between Late Shri Dharamvir Singh, (the predecessor-in-title of the defendants No.1) and the defendant No. 2, MOU dated 4.3.2013 executed between the predecessor-in-title of the defendants No.1 & 2 and the plaintiff, and the Receipt/agreement dated 18.3.2013, executed by the defendant No.1 in favour of the plaintiff, in respect of half of the undivided share in agricultural land measuring 643

biswas, i.e., 32 bighas 3 biswas comprised in Khasra No.45/9/2 (1-08), 12/2(1-18), 13(4-15), 14(3-16), 15(2-02), 16(4-08), 17/1/(4-04), 18(4-16), 19(4-16) situated in the revenue estate of village Auchandi, Delhi. Further, the plaintiff has sought a decree of permanent injunction to restrain the defendant No.1 from creating any third party interest in the subject landholding. In the alternative, the plaintiff has prayed for directions to the defendant No.1, to refund an amount of Rs.1.00 crore paid to their predecessor-in-title as earnest money along with interest.

2. Pleadings in the suit are complete. When the case was listed on 18.7.2016, for framing of issues, Mr. Mehta, learned counsel for the defendants No.1(a), (b) & (c) (legal heirs of Shir Dharamvir Singh, the original owner of the subject landholding) had stated that without prejudice to the rights and contentions of his clients, they are ready and willing to concede the relief of specific performance prayed for by the plaintiff on the condition that out of the agreed total sale consideration of Rs.4,68,85,417/-, as recorded in the Agreement to Sell dated 30.11.2012, the balance sale consideration of Rs.3,68,85,417/- be paid by the plaintiff, after adjusting the sum of Rs.1.00 crore already received by them, along with interest for the delayed payment. In view of the aforesaid submission, counsel for the plaintiff was directed to obtain necessary instructions from his client.

3. Today, Mr. Rana, learned counsel for the plaintiff states on instructions from Mr. Ankush Jain, Director of the plaintiff company, who is present in person, that the plaintiff has no objection to discharging its

obligations under the Agreement to Sell dated 30.11.2012, MOU dated 4.3.2013 and the Receipt/agreement dated 18.3.2013. He however disputes the contention of the defendants that there has been a deliberate delay on the part of the plaintiff in discharging its obligations under the contract. He states that vide Agreement to Sell dated 30.11.2012 executed between the defendant No.2 and Shri Dharamvir Singh, [predecessor-in-title of the defendant No.1(a), (b) & (c)], the parties had agreed that the owner of the subject landholding shall sell the same to the defendant No.2 for a total sale consideration of Rs.4,68,85,417/- and at the time of executing the said contract, part sale consideration of Rs.50.00 lacs was received by Shri Dharamvir Singh. Subsequently, a MOU dated 4.3.2013 was executed between the plaintiff/company (who had stepped into the shoes of the defendant No.2), and Shri Dharamvir Singh, whereunder both the parties had agreed to abide by the terms and conditions of the sale as recorded in the Agreement to Sell dated 30.11.2012. This was followed by the execution of the Receipt dated 18.3.2013, by Shri Dharamvir Singh, who had acknowledged having received a sum of Rs.50.00 lacs from the plaintiff, towards part sale consideration and undertaken *inter alia* that he would execute the sale deed within the period one year from the date of execution of the Agreement to Sell, i.e., on or before 30.11.2013.

4. Counsel for the plaintiff states that instead of abiding by the terms and conditions of the Agreement to Sell dated 30.11.2012, by executing the sale deed in favour of the plaintiff on or before the cut off date, the predecessor-

in-title of the defendant No.1(a), (b) & (c) had served a misconceived legal notice dated 21.3.2013 on the plaintiff, terminating the said contract. The plaintiff had replied to the said notice, vide letter dated 2.12.2013, wherein it had showed its readiness and willingness to execute a sale deed in respect of the landholding within fifteen days from the date of issuing the said reply. When the predecessor-in-title of the defendant No.1(a), (b) & (c) refused to respond to the said reply, the plaintiff was compelled to institute the present suit on 17.10.2014. He thus questions the right of the defendant No.1 (a), (b) & (c) to demand interest on the balance sale consideration on the ground that his client was always ready and willing to discharge its obligations under the contract.

5. It may be noted that Shri Dharamvir Singh had expired on 11.4.2014, prior to institution of the present suit. As a result, the present suit has been filed by the plaintiff against his legal heirs and Shri Sudhir Singh, the original purchaser named in the Agreement to Sell dated 30.11.2012.

6. This Court is not persuaded by the submission made by the counsel for defendant No.1(a), (b) & (c) to the effect that the plaintiff had deliberately delayed in discharging its obligations under the Agreement to Sell dated 30.11.2012. On a perusal of the contents of the legal notice dated 21.10.2013 issued by Shri Dharamvir Singh, it transpires that the only ground taken by him for terminating the contract was that a copy of the said document had not been furnished to him, which is rather flimsy.

7. In the course of arguments, learned counsel for the defendant No.1(a),

(b) & (c) states that if the plaintiff agrees to pay the defendants No.1(a), (b) and (c) the balance sale consideration of Rs.3,68,85,417/- within two weeks from the date they furnish a NOC from the revenue authorities, which is a pre-condition for executing the sale deed in respect of the subject landholding in terms of Clause (a) of the Agreement to Sell dated 30.11.2012, his clients shall execute a Sale Deed in their favour. Counsel for the plaintiff is agreeable to the said suggestion.

8. Accordingly, with the consent of the parties, a decree of specific performance is passed in favour of the plaintiff and against the defendants No.1(a), (b) and (c) in respect of half undivided share in agricultural land measuring 643 biswas, i.e., 32 bighas 3 biswas comprised in Khasra No.45/9/2 (1-08), 12/2(1-18), 13(4-15), 14(3-16), 15(2-02), 16(4-08), 17/1/(4-04), 18(4-16), 19(4-16) situated in the revenue estate of village Auchandi, Delhi. As a first step, defendant No.1(a), (b) & (c) shall immediately apply to and obtain a NOC from the revenue authorities for executing a Sale Deed in favour of the plaintiff. The defendants shall execute the sale deed in respect of the subject landholding in favour of the plaintiff within two weeks from the date of obtaining a NOC from the revenue authorities. The plaintiff shall pay the balance sale consideration of Rs.3,68,85,417/- to the defendants No.1(a), (b) and (c) at the time of execution of the Sale Deed in respect of the subject landholding before the Registrar of Assurance. Decree sheet be drawn accordingly.

9. In case either party commits a default in discharging their obligations,

as recorded hereinabove, the aggrieved party shall be entitled to seek execution of the judgment and decree, in accordance with law.

10. The suit is disposed of, along with the pending applications.

HIMA KOHLI, J

SEPTEMBER 01, 2016
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