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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 309/2016, IA No.8898/2017 (u/O XXIII R-3 CPC) & IA
No.7525/2016 (u/O XXXIX R-1&2 CPC)
SURESH KOCHHAR (HUF) & ORS Plaintiffs

Through: Mr. Ravi Gupta, Sr. Adv. with Mr.
Sumer Gandhi, Ms. Mallika Bhatia &
Mr. Abhinav Garg, Advs.

Versus

V LOCAL PROMOTORS PRIVATE LTD & ANR... Defendants

Through: Mr. Ajay Khanna, Adv.
Mr. Samrat Nigam, Adv. for Capt.
Ajay Jangeed.
Mr. K.K. Rohatgi, Adv. for A.S.
Bhardwaj.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.12.2017

1. The three plaintiffs viz. Suresh Kochhar (HUF), Sudesh Kochhar & Puneet Kochhar and the two defendants viz. V Local Promoters Pvt. Ltd. and Sunil Kumar, in this suit for specific performance of an Agreement of Sale dated 8th January, 2014 with respect to property bearing No.FA-33, First Floor, Sector F&G, Shivaji Enclave, New Delhi and for permanent injunction restraining the defendants from dealing with the property, were vide order dated 8th May, 2017, on the application of the parties, referred to the Mediation Cell of this Court.
2. The senior counsel for the plaintiffs states that besides this suit, the plaintiffs had filed several other suits against the defendants and against the other companies of the defendant no.2 Sunil Kumar, as the defendant no.1

company is. It is further stated that the other suits are pending before different District Courts. It is yet further stated that the parties before the Mediation Cell of this Court have arrived at an Umbrella Settlement in this suit as well as in all the other suits of which particulars are given in the Settlement Agreement dated 30th May, 2017 received in this Court.

3. It is further stated that the plaintiffs have also filed IA No.8898/2017 purportedly under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) but without the signatures of the defendants.

4. The senior counsel for the plaintiffs and the counsel for the defendants support the Settlement Agreement and seek disposal of the present suit pertaining to property No.FA-33, First Floor, Sector F&G, Shivaji Enclave, New Delhi in terms of the Settlement Agreement aforesaid.

5. Though the counsel for the defendants earlier on enquiry had stated that he is supporting the Settlement Agreement but now at the time of dictation states that the plaintiffs have not complied with certain obligations under the Settlement Agreement and his statement that he is fully supporting the Settlement Agreement may not be recorded.

6. The counsel for one A.S. Bhardwaj appears and states that property No.JA-0718, 7th Floor, DLF, Tower-A, Jasola, New Delhi mentioned at Serial No.(iii) of para no.6(C) of the Settlement Agreement belongs to the said A.S. Bhardwaj and A.S. Bhardwaj has filed a suit with respect thereto which is pending in the Court of Ms. Abida Parveen, Additional District Judge, Saket Courts, New Delhi and on enquiry states that though the defendant no.1 is not a party to the said suit but the defendant no.2 Sunil

Kumar is a party to the said suit. It is further stated that in the said suit there is an order of *status quo* with respect to the said property.

7. Similarly, counsel for one Capt. Ajay Jangeed also appears and states that property No.JA-0704, 7th Floor, DLF, Tower-A, Jasola, New Delhi mentioned at Serial No.(ii) of para no.6(C) of the Settlement Agreement belongs to Capt. Ajay Jangeed and CS(OS) No.1434/2015 of this Court is pending with respect thereto. On enquiry, it is stated that defendant no.2 Sunil Kumar is a party in the said suit and there is an order of *status quo* in the said suit also.

8. I have enquired from the counsels for A.S. Bhardwaj and Capt. Ajay Jangeed as to how their claims, if any, can be adjudicated in this suit.

9. The said claims, if any, have to be adjudicated in the suits which are already stated to have been instituted or in other appropriate proceedings and the said persons cannot have any right of impleadment in the present suit. If the properties to which the said two persons claim rights are subject matter of compromise, it is again for the said persons to either in the pending proceedings or in other appropriate proceedings obtain appropriate orders in this regard, impleading all the parties to this suit as parties thereto.

10. Moreover, this suit as aforesaid was instituted only qua property No.FA-33, First Floor, Sector F&G, Shivaji Enclave, New Delhi and to which neither A.S. Bhardwaj nor Capt. Ajay Jangeed claim any right. The compromise arrived at between the parties in this suit, though contained in Umbrella Settlement, pertains to this suit only and not to any other property.

11. As far as the contention of the counsel for the defendants, of the plaintiffs having not performed any of their obligations under the Settlement Agreement is concerned, the consequences therefor if any provided in the Settlement Agreement would follow and if no such consequences have been provided, the defendants have to execute the decree to be passed in terms of Settlement Agreement, to secure compliance of the said obligation.

12. The parties have in the Settlement Agreement provided for withdrawal of this suit after implementation of the Settlement Agreement.

13. However, the suit cannot be kept pending.

14. Option has been given to the senior counsel for the plaintiffs to either withdraw the suit and in which case the court fees can be refunded or opt for a decree to be passed in terms of the Settlement Agreement dated 30th May, 2017.

15. Upon it being enquired from the counsel for the defendants whether not it is expedient for the defendants also to have the decree passed in terms of the Settlement Agreement, the counsel for the defendants states that there is no authority in favour of the defendant no.2 to sign the Settlement Agreement on behalf of the defendant no.1 V. Local Promoters Pvt. Ltd. and that some of the properties subject matter of Settlement Agreement are owned by Sanjay Dahiya who is not even a party to the Settlement Agreement. It is yet further stated that enquiry by the Serious Fraud Investigation Office (SFIO) has been ordered by this Court in another proceedings in the affairs of the defendants and their other group companies.

16. In spite of the Settlement Agreement being before this Court for the last six months, no application reneging therefrom has been filed. All that is being said today by the counsel for the defendants is being urged orally and to which no credence can be given.

17. Moreover, as aforesaid this suit was concerning one property only i.e. property No.FA-33, First Floor, Sector F&G, Shivaji Enclave, New Delhi and the decree in this suit will pertain to the said property only and cannot be with respect to other properties which are subject matter of other suit.

18. I may record that vide earlier order dated 15th September, 2017, the defendant no.2 Sunil Kumar, in judicial custody, was ordered to be produced today and is present in the Court; though the counsel for the defendants on the last date of hearing i.e. 15th September, 2017 had also sought adjournment to file authorization of S.K. Dahiya on behalf of defendant no.1 however the same was also on the request of the counsel for the defendants no.1&2. Else, the defendant no.2 has signed the Settlement Agreement on behalf of defendant no.1 and if the defendant no.2 did so without authorization, it is the outlook of the plaintiffs. It is of course the contention of the senior counsel for the plaintiffs that the defendant no.2 Sunil Kumar was duly authorized on behalf of defendant no.1 on the basis of Articles of Association.

19. In this view of the matter, subject to the aforesaid, a decree is passed in favour of the plaintiffs and against the defendants insofar as pertaining to the subject matter of the present suit in terms of the Settlement Agreement dated 30th May, 2017 and which Settlement Agreement and today's order shall form part of the decree sheet, leaving the parties to bear their own costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

DECEMBER 06, 2017

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