

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL LODGING NO.125 OF 2017
IN
NOTICE OF MOTION NO.376 OF 2016
IN
SUIT NO.97 OF 2016
WITH
NOTICE OF MOTION (STAMP) NO.818 OF 2017**

Alkesh S/o.Satish Shah

..Appellant/Plaintiff

Vs.

Oriental Melodies Pvt. Ltd. & Ors.

..Respondents/Defendants

Ms.M.M. Dave for Appellant.

Mr.Shashank N. Fadia, for Respondent Nos.1 to 3.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 14th MARCH 2018

P.C.:

The learned Counsel for the parties have filed Consent Terms dated 14th March 2018. The Consent Terms are signed by the parties who are present in the Court, as also by their respective Counsel. The learned Counsel for the parties have identified the signatures of their respective parties. The said Consent Terms are taken on record. Clauses 1 and 4 of the said Consent Terms read as under:-

“1. Agreed and declared that there is now due and payable by the Respondents / Original Defendants to the Applicant / Original Plaintiff a sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only) under a Deed of Mortgage dated 22nd August, 2012 executed between the Respondents / Original Defendants as mortgagors of the one part and the Applicant / Original Plaintiff as the mortgagees of the other part.

4. Agreed and declared that if the Respondent / Original Defendants fail to pay the said sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only) as stated hereinabove on or before 31st December, 2018 the Applicant / Original Plaintiff will be entitled to take possession of the premises through the Court Receiver.”

2. The said settlement is full and final settlement of all the disputes and claims of the original plaintiff as against the original defendants. In view of the settlement by way of Consent Terms, the impugned order passed by the learned Single Judge stands quashed and set aside.

3. In view of the aforesaid Consent Terms, we pass following order:-

ORDER

- i. Suit No.97 of 2016 is decreed in terms of the Consent Terms;
- ii. Appeal stands disposed of;

iii. Notice of Motion (L.) No.818 of 2017 stands disposed of accordingly.

At this stage, the learned Counsel appearing for the appellant prays for refund of Court Fees.

iv. Prothonotary & Senior Master to take necessary steps as per rules.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]