

IN THE HIGH COURT OF JUDICATURE AT MADRASDATED: **20.12.2018**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR**C.S.No.501 of 2007**

MGM Diamond Beach Resorts (P) Ltd.,
Represented by its Director
M.G.M.Maran,
No.1, 9th Street,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004. Plaintiff

Vs.

Sir John De Monte Trust
Rep. by its Trustee,
Most Rev. Dr.A.M.Chinnappa,
No.41, Santhome High Road,
Mylapore, Chennai - 600 004. Defendant

Civil Suit filed under Order IV Rule 1 of the High Court Original Side Rules, 1956 read with Order VII Rule of the Civil Procedure Code, 1908, (i) directing the defendant to do all acts necessary and incidental thereto for executing an appropriate lease deed in favour of the plaintiff with regard to the demised property admeasuring 50 grounds in "Bens Garden" comprised as 14 grounds and 765 sq.ft on the southern portion at No.73, Chamiers Road and 35 grounds and 1635 sqft at No.72, Chamiers Road morefully described in the Schedule to this plaint as per the Memorandum of Understanding dated 02.01.2002 and thereby direct the defendant to thus implement the Memorandum of Understanding dated 02.01.2002, within a time

frame to be fixed by this Court; (ii) granting a permanent injunction restraining the defendant, its men or agents from leasing out or creating any form of interest in the property admeasuring 50 grounds in "Bens Garden" comprised as 14 grounds and 765 sqft on the southern portion at No.73, Chamiers Road and 35 grounds and 1635 sqft at No.72, Chamiers Road morefully described in the schedule to this plaint; and (iii) directing the defendant to pay to the plaintiff the cost of the suit.

For Plaintiff : Mr.K.Ashok Kumar

For Defendant : Ms.Auxilia Peter

J U D G M E N T

This suit was filed for the following relief :

(i) directing the defendant to do all acts necessary and incidental thereto for executing an appropriate lease deed in favour of the plaintiff with regard to the demised property admeasuring 50 grounds in "Bens Garden" comprised as 14 grounds and 765 sq.ft on the southern portion at No.73, Chamiers Road and 35 grounds and 1635 sqft at No.72, Chamiers Road morefully described in the Schedule to this plaint as per the Memorandum of Understanding dated 02.01.2002 and thereby direct the defendant to thus implement the Memorandum of Understanding dated 02.01.2002, within a time frame to be fixed by this Court;

(ii) granting a permanent injunction restraining the defendant, its men or agents from leasing out or creating any form of interest in the property admeasuring 50 grounds in "Bens Garden" comprised as 14 grounds and 765 sqft on the southern portion at No.73, Chamiers

Road and 35 grounds and 1635 sqft at No.72, Chamiers Road morefully described in the schedule to this plaint; and

(iii) directing the defendant to pay to the plaintiff the cost of the suit.

2. At the instance of both sides, when the suit is taken up for hearing today, the learned counsel appearing for the plaintiff as well as the defendant have submitted that, between the plaintiff and the defendant, there had been a settlement, pursuant to which, a memo of compromise has been entered into between the plaintiff and the defendant on 20.12.2018, i.e., today.

3. Therefore the learned counsels submit that, in view of the memorandum of compromise entered into between the parties, after having recorded the same, the suit can be disposed of in terms of the said memorandum of compromise.

4. I have gone through the said memorandum of compromise, which has been signed by the Director of the plaintiff company and the power of attorney holder of the sole trustee of the defendant trust.

5. The memorandum of compromise witnesseth as follows :

"1. The Plaintiff and the Defendant agree to terminate

the MOU dated 02.01.2002 by executing this instrument of Memorandum of Compromise.

2. The Defendant has agreed to return the advance of Rs.1,00,00,000/- (Rupees One crore only) to the plaintiff along with interest at the rate of 12% per annum calculated from the date of payments till the date of return of the said amount of Rs.1,00 crore which works out to Rs.2,04,00,000/- (Rupees Two Crore Four Lakhs only) totalling in all a sum of Rs.3,04,00,000/- (Rupees Three Crore and Four Lakhs only). However, at the request of the Defendant, the Plaintiff has agreed to reduce Rs.25,00,000/- (Rupees Twenty Five Lakhs only) out of the total interest claimed by the Plaintiff and has agreed to accept the Demand Draft in favour of M/s. Anand Transports for a sum of Rs.2,79,88,767/- (Rupees Two Crores Seventy Nine Lakhs Eighty Eight Thousand Seven Hundred and Sixty Seven only), dated 19.12.2018 bearing No.244798, drawn on State Bank of India, Santhome, in full and final settlement of all its claims against the Defendant relating to the suit property, morefully described in the schedule hereunder.

3. This constitutes a full and final settlement between the parties. Both the parties have agreed that there are no claims against each other in respect of the above referred MOU dated 02.01.2002, suit and otherwise in respect of the suit property and the said MOU shall cease as and from this date, and become null and void.

4. The Defendant has handed over the Demand Draft bearing No.244798, dated 19.12.2018 drawn on State Bank of India, Santhome, drawn in favour of Anand Transport Private Limited for a sum of Rs.2,79,88,767/- (Rupees Two Crores Seventy Nine Lakhs Eighty Eight Thousand Seven Hundred and Sixty Seven only) to the plaintiff and the same is acknowledged herewith. The Plaintiff has handed over vacant possession of the schedule mentioned property on execution of this Memorandum of Compromise and the Defendant Trust has acknowledged the taking over the vacant possession of the property mentioned in the schedule hereunder.

5. The Plaintiff hereby withdraws the suit in C.S.No.501 of 2007 on the file of this Hon'ble Court as against the Defendant.

SCHEDULE

All that piece and parcel of land and building bearing the Southern portion of the property bearing No.73, Chamiers Road, Raja Annamalaipuram, Chennai - 600 028, measuring an extent of 14 grounds 765 sq.ft and the property bearing No.72, Chamiers Road, measuring 35 grounds 1635 sq.ft totally measuring 50 grounds or thereabouts comprised in R.S.No.3923 in Block No.86 bounded as :

North by	: Northern Portion of No.73, Chamiers Road
South by	: Property in No.71, Chamiers Road
East by	: Chamiers Road

West by : Remaining extent of property in
72/73, Chamiers Road."

6. In view of the said compromise entered into between the parties, where the advance amount paid by the plaintiff to the defendant, pursuant to the MOU, dated 02.01.2002, since had been returned with interest, by way of Demand Draft bearing No.244798, dated 19.12.2018 and the receipt of the same has been acknowledged by the plaintiff and also the possession of the suit property has also been handed over to the defendant and the defendant also has acknowledged the taking over of the possession of the suit property, both these terms, have been form part of the memorandum of compromise, as set out above.

7. In view of the above, the following order is passed in this Civil Suit:

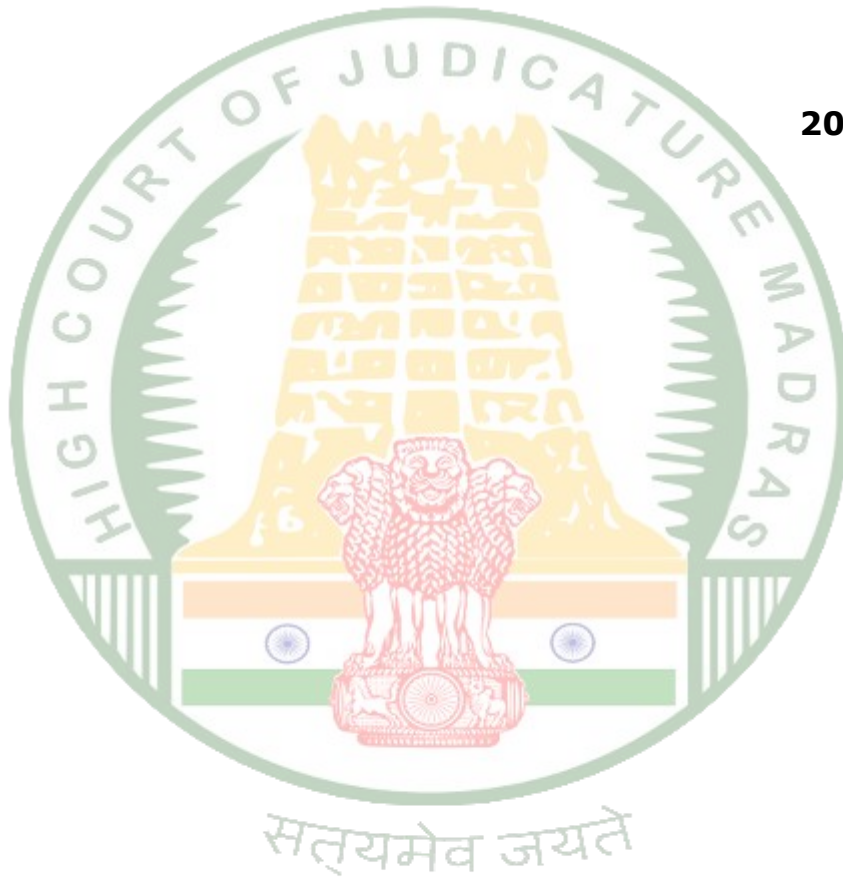
(i) That the said compromise memo, dated 20.12.2018 is taken on record and shall form part of the decree.

(ii) In view of the compromise having been entered into as agreed, the plaintiff hereby has withdrawn this suit (C.S.No.501 of 2007) as settled out of Court and the said withdrawal also has been recorded.

Accordingly this Civil Suit is decreed in terms of the memo of compromise. No costs.

tsvn

20-12-2018



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R.SURESH KUMAR, J

tsvn



C.S.No.501 of 2007

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