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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 275/2016, IA Nos.12403/2014, 19371/2015, 15129/2016,
15131/2016, 4229/2017
M/S NAV JYOTI FINCORP LTD

..... Plaintiff
Through : Mr.Anil Sapra, Sr. Adv. with
Ms.Gunjan Kumar, Mr.Vishnu
Unnikrishnan and Mr.Jaideep Singh,
Advs.

versus

M/S ACE STONE CRAFT LTD AND OTHERS

..... Defendants
Through : Mr.R.P.Agrawal and Mr.Sunny
Verma, Advs. for D-1
Mr.S.K.Gandhi and Ms.Manjula
Gandhi, Advs. for D-4

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **26.02.2018**

IA No.2350/2018 in CS(COMM) 275/2016

This is an application under XXIII Rule 3 read with section 151 of the Code of Civil Procedure on behalf of parties. It is noted the parties have settled and the suit of the plaintiff be decreed in terms of para 9 of the application. The terms and conditions of the settlement as enumerated in para 9 of the application are as under :

9. That after completion of pleadings, arguments were heard at length on the application under Order XXXIX Rules 1 & 2 of the CPC (I.A. No. 12403 of 2014) as well as on the application under Order XXXIX Rule 4 of the CPC (I.A. No. 19371 of

2015) and during the course of the said arguments, the parties have amicably resolved their disputes on the following terms:

a) The parties have agreed that the assignment deed dated 31.10.2012 executed between the Defendant no. 1 & 2 be set aside / cancelled pursuant to the order to be passed by this Hon'ble Court and accordingly, Defendant no. 3 (Sub-Registrar, Ramgarh, Alwar, Rajasthan) be directed to record and register the cancellation of the said registered assignment deed dated 31.10.2012 from its record.

b) That in view of the agreed terms between the parties, the Plaintiff will pay a sum of Rs. 15.00 lakhs only (Rupees Fifteen Lakhs only) to Defendant no. 2 by way of Demand draft and on receipt of the said sum of Rs. 15.00 lakh. Defendant no. 2 shall pay / return a sum of Rs. 1.20 crores (Rupees One Crore Twenty Lakhs only) (including the sum of Rs.1.05 crore earlier paid by the Plaintiff to Defendant No.2) to Defendant no. 1 by means of Pay Order / Demand Draft within a period of one week of the passing of the order on the present application.

c) That Defendant no. 2 shall execute and get registered the assignment deed in terms of agreement dated 18.04.2008 (executed between the Plaintiff and Defendant no. 2) in favour of Plaintiff / its nominee on the consideration of Rs. 1.20 crores already paid by the Plaintiff to Defendant no. 2, thereby assigning all rights, title and interest including all underlying securities pertaining to the account of M/s Spark Plug India Ltd. in favour of Plaintiff / its nominee and thereafter the Plaintiff / its nominee shall be entitled to proceed against all the assets / securities /guarantors of

M/s Spark Plug India Ltd. in accordance with law being its lawful owner.

d) The Plaintiff shall be entitled to encash / receive back the proceeds of the aforesaid DD No. 398221 dated 09.05.2011 of Rs. 5 lacs drawn on State Bank of India, New Delhi, which said amount according to Defendant no. 2 has not been received by it from the Plaintiff. However, with regard to the said Demand Draft, there will be no liability of Defendant No. 2.

e) All the expenses for the execution and registration and other expenses of the assignment to be executed by Defendant no. 2 in favour of Plaintiff / its nominee in terms of point (c) hereinabove including the stamp duty and registration fee shall be borne by the Plaintiff / its nominee. The said assignment deed shall positively be executed and registered with the Sub-Registrar, Ramgarh, Alwar, Rajasthan by the Defendant no. 2 in favour of Plaintiff / its nominee within a period of one month from the date passing the order / judgment by this Hon'ble Court on this application.

f) That Defendant no. 1 shall also cooperate with Plaintiff / its nominee and Defendant no. 2 for the registration of the assignment deed to be executed by Defendant no. 2 in favour of Plaintiff / its nominee as aforesaid before Defendant no. 3 / concerned Sub-Registrar, Alwar, Rajasthan, if need be, without demanding any consideration in this regard.

g) That Defendant No. 3 shall do all that is required and necessary to register in its records the assignment deed to be executed by Defendant No.2 in favour of the Plaintiff/ its nominee, as

aforesaid.

h) That Defendant no. 2 shall return/handover the complete records pertaining to the cases / assets / debts of M/s Spark Plug India Ltd. available with it including the files, papers, documents, securities and guarantees received from Bank of India etc. to the Plaintiff/ its nominee, in order to enable it to proceed against the said assets. The original documents were filed in DRT by Defendant no. 4 i.e. Bank of India in the OA(s) filed by it where both the OAs were decreed by DRT. The Plaintiff/its nominee shall be entitled to receive back the said original documents from DRT, for which the Defendants have got no objection.

i) That in view of the aforesaid agreed terms, the Plaintiff has agreed to pay a sum of Rs. 15 lacs (Rupees Fifteen Lacs only) to Defendant no. 2 and Defendant no.2 shall pay aggregate sum of Rs. 1.20 crore to defendant No.1 after which fresh Assignment deed will be executed by Defendant No. 2 in favour Plaintiff as aforesaid. The said payments will be towards full and final settlement and claims of all the parties against each other and thereafter nothing shall remain due and payable by one party to another on any account whatsoever. The said amount of Rs. 15.00 lakhs shall be paid by means of a Demand Draft and the original thereof shall be handed over by the Plaintiff to Defendant no. 2 in the Court at the time of disposal of this application. On receipt of the aforesaid amount of Rs. 15.00 lakhs, Defendant no. 2 shall be left with no right whatsoever on any account whatsoever from the Plaintiff / its nominee.

A draft of ₹ 15 lakh is handed over by the plaintiff to defendant

No.2. The defendant No.2 to comply with the terms of the settlement and undertaking given. The defendant No.2 has agreed to execute an assignment in favour of the plaintiff's nominee i.e. Comshare Investments Pvt. Ltd. 32A, First Floor, Kalu Sarai, Near Hauz Khas Metro Station, New Delhi.

The suit of the plaintiff is thus decreed in terms of Para 9 of IA No. 2350/2018.

No order as to costs.

YOGESH KHANNA, J

FEBRUARY 26, 2018
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