

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

CIVIL REVISION APPLICATION NO.453 OF 2017

WITH

CIVIL APPLICATION NO.277 OF 2018

Pradip Ambalal Patel and another.] Applicants

Vs.

M/s. NESCO LIMITED] Respondent

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Mr. P.N. Shah, Advocate for the Applicant.

Ms. Leena Shah with Mr. Dipen Furia i/b M/s. Shah & Furia Associates,
Advocate for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 25th JUNE, 2019.

P.C.

Heard Mr. Shah, learned Counsel for the applicant and Ms. Shah,
learned Counsel for the respondent.

2. Learned Counsel for the parties have tendered consent terms dated 25th June, 2019 duly signed by applicant No.1-Pradip Ambalal Patel representing M/s. Indo American Industries, a partnership firm, since dissolved and Mr. Arvind Ambalal Patel, Authorized Signatory of applicant No.2-Ampson Engineering Pvt. Ltd as also their Advocates and by Dipesh R. Singhania, CFO Legal Head of the respondent-Nesco Limited and Advocate appearing for the respondent. The same is taken on record and marked 'A' for identification. The applicants have agreed and undertaken to vacate and hand over peaceful possession of structure admeasuring 2,280 forming part and parcel of the larger property known as NESCO Center, lying being and situate at Western Express Highway, Goregaon (East), Mumbai – 400 063 (for short

'suit premises') to the respondent on or before 31st July, 2019. The respondent, in turn, has agreed and undertaken not to execute the decree till 31st July, 2019.

3. In the event of the applicants falling to hand over vacant and peaceful possession of the suit premises on or before 31st July, 2019, the applicants have agreed and undertaken to pay compensation/mesne profits @ Rs.1,00,000/- per day to the respondent from 1st August, 2019 till handing over possession of the suit premises to the respondent. The applicants have agreed, confirmed and declared that henceforth they have no share, right, interest or demand of whatsoever nature, in respect of the suit property or against the respondent.

4. In consideration of relinquishing and surrendering of the share, right, interest and demand of the applicants in respect of the suit property in favour of the respondent and for handing over quiet, vacant and peaceful possession of the suit premises to the respondent, the respondent has agreed and undertaken to pay to the applicants a lumpsum amount of Rs.3,00,00,000/- (Rs. Three Crore only) in full and final settlement. Upon execution of the consent terms, the respondent has agreed to hand over a cheque dated 12th June, 2019 in the sum of Rs.30,00,000/- towards part payment of agreed consideration of Rs.3,00,00,000/- and balance amount of Rs.2,70,00,000/- is to be paid in the name of M/s. Ampson Engineering Pvt. Ltd upon handing over possession by the applicants to the respondent.

5. Mr. Shah states that applicant No.1 is present in the Court. He has tendered photo copy of his "Aadhar Card" which is taken on record and marked 'B' for identification. He further states that Arvind Ambalal Patel, authorized signatory of applicant No.2 is present in the Court. He has tendered photo copy

of his “Aadhar Card” which is taken on record and marked “C” for identification. Ms. Shah states that Dipesh R. Singhania, CFO Legal Head of the respondent is present in the Court. She has tendered photo copy of his “Pan Card”, which is taken on record and marked “D” for identification. The parties admit and affirm correctness of the consent terms.

6. Learned Counsel for the parties state that rights of a third party who is not before this Court are not affected by the consent terms. Apart from that, they further state that no litigation in respect of the suit premises is pending in any Court of law at the instance of any third party who is not before this Court. Statements are recorded. They submit that as the controversy is lawfully settled between the parties in terms of the consent terms, C.R.A may be disposed of.

7. After perusing the consent terms, I am satisfied that the controversy between the parties is lawfully settled. Undertakings given by the applicants and the respondent are accepted. The decree passed by the Courts below shall stand substituted in terms of the consent terms. Decree shall be drawn as per the consent terms. Civil Revision Application stands disposed of in terms of the consent terms.

8. The respondent is permitted to withdraw all amounts deposited by the applicants in the;

- (i) Small Causes Court at Bandra vide judgment and decree dated 5th May, 2015 passed in R.A.E & R Suit No.141/482 of 1992;
- (ii) in Appeal No.23 of 2015 and
- (iii) deposited in this Court vide order dated 22.08.2017 in the present Petition along with all interest accrued thereon till date.

9. Rule is discharged with no order as to costs.
10. In view of disposal of the main C.R.A, C.A. No.277 of 2018 for expeditious disposal of the C.R.A does not survive and the same is disposed of.
11. **List the C.R.A on 1st August, 2019 for reporting compliance.**
12. All the parties including the concerned Courts to act upon the authenticated copy of this order.

[R.G. KETKAR, J.]