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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 39/2019**

SHRI MOOL CHAND SHARMA & ORS. Plaintiffs

Through: **Mr. Sanjeev Sindhvani, Sr. Adv. with
Mr. Siddhant Aggarwal, Adv.**

versus

M/S ADIVA HOSPITALS (P) LTD. Defendant

Through: **Mr. Tanmay Mehta and Mr. Atul
Aggarwal, Advs.
Ms. Nikhila Joseph, Director of the
defendant company is present in
person.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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20.12.2019

IA 18170/2019

1. This is a joint application signed / filed by the plaintiffs and the defendant with the following prayers:

“It is therefore most respectfully prayed that a compromise decree in terms of para 4 of the present application may kindly be passed.

Any other or further order which this Hon'ble court deems fit and proper in the facts and circumstances of the present suit may also be passed.”

The application is supported by the affidavits filed by the plaintiffs and on behalf of the defendant. Even the counsels for the parties have signed the application.

2. Learned counsel appearing for the parties states that the parties have settled their disputes in terms of Para 4(a) to 4(l) of this application. They

undertake that the parties shall be bound by the terms of the settlement as in Para 4(a) to 4(l). They also state that the Suit be decreed in terms of Para 4(a) to 4(l) of this application. The relevant terms in Para 4(a) to 4 (l) of the application reads as under:

“4. That the terms of the settlement arrived at between the parties are as follows:

a. That the tenancy of the defendant in respect of the premises in dispute was terminated by the plaintiffs vide notice dated 18.11.2018. The defendant has no objection if a decree for possession of the suit premises i.e. a portion of the property bearing no. C-1/C, Green Park Extension on 60 mtr road built on Khasra no 68, revenue estate of village Yusuf Sarai, New Delhi- 16 comprising of basement, ground floor, half portion of first floor, 2nd floor, mezzanine floor and third floor more specifically shown in red colour in the site plan annexed with the plaint is passed in favour of the plaintiffs and against the defendant.

b. The defendant is granted time to vacate the suit premises on or before 29.2.2020. The defendant through its duly authorized Directors Shri Bikash Kumar Singhdeo and Ms. Nikhila Joseph undertakes to handover to the plaintiffs the physical, vacant and peaceful possession of the suit premises on or before 29.2.2020. It has been agreed between the parties that in case the said undertaking is not complied, Shri Bikash Kumar Singhdeo and Ms. Nikhila Joseph shall be personally liable for the consequences thereof including contempt of court proceedings. The defendant shall also be liable for contempt proceedings in case the said undertaking is not complied with. It is also agreed between the parties that in case the defendant does not handover the vacant, physical and peaceful possession of the abovesaid suit premises to the plaintiffs on or before 29.2.2020, the plaintiffs shall also be entitled to get the present decree executed through the court besides the aforesaid contempt proceedings.

c. That the defendant undertakes that it shall not cause any damage to the premises in dispute.

d. That it has further been agreed between the parties that towards the claim of the plaintiffs towards arrears of rent, damages for use and occupation till the date of filing of the suit and costs and litigation expenses borne by the plaintiffs, the defendant shall surrender movable goods owned by it as detailed in a List of Movable Goods annexed to this application as ANNEXURE A to the plaintiffs in full and final satisfaction of their claims. It is made clear that there are two lifts installed in the premises in dispute, one of the lift is of Schindler make and which is owned by the plaintiffs and the other lift is owned by the defendant which will be surrendered to the plaintiffs by the defendant.

e. That it has further been agreed between the parties that in case the vacant, physical and peaceful possession of the abovesaid suit premises is not handed over to the plaintiffs by the defendant on or before 29.2.2020, the defendant undertakes to pay damages for use and occupation @ Rs 15,00,000/- per month from the date of the suit till possession thereof is received by the plaintiffs. It is further agreed by Shri Bikash Kumar Singhdeo and Ms Nikhila Joseph that they undertake to pay the said amount and shall be personally liable to pay the said amount.

f. The defendant also undertakes to continue to pay the electricity and water bills directly to the authority concerned till the vacation of the premises in dispute and undertakes not to create any third party interest in the suit premises. The defendant also undertakes that any tax liability in respect of the premises in dispute till the date of handing over of the possession of the premises in dispute shall be borne and paid by the defendant.

g. That the plaintiffs no. 2 and 3 have also filed a suit for recovery of arrears of rent amounting to Rs 77,22,000/- which

suit is pending disposal before the court of Shri Munish Markan, Addl District Judge, Saket, New Delhi. The plaintiffs no. 2 and 3 shall not claim the said amount in the said suit in view of the present settlement and shall get the said suit disposed off.

h. That the plaintiffs no. 2 and 3 have also filed a criminal complaint against Shri Bikash Kumar Singhdeo and Ms Nikhila Joseph and others in pursuance of which an FIR No. 138 of 2019 dated 30.5.2019 under Section 420/506/120B IPC has been registered by Police Station Crime Branch, Delhi. Shri Bikash Kumar Singhdeo has filed an anticipatory bail application bearing no. 2791 of 2019 in the Hon'ble High Court of Delhi which is fixed up for 23.12.2019. It is agreed between the parties that the plaintiffs no. 2 and 3 shall not oppose the said bail application on 23.12.2019 or any date thereafter. In case, Shri Bikash Kumar Singhdeo and Ms. Nikhila Joseph file a petition under Section 482 Code of Criminal Procedure before the Hon'ble High Court of Delhi for getting the said FIR quashed, the same shall be filed only after the physical, vacant and peaceful possession of the suit premises is handed over by the defendant to the plaintiffs and the plaintiffs no. 2 and 3 shall give full support and co-operation in quashing of the said FIR.

i. That Shri Bikash Kumar Singhdeo has filed an application under Section 200 Cr.PC alongwith application under Section 156(3) Cr.PC which is pending disposal before the court of MM, Saket Courts against the plaintiffs no. 2 and 3. Shri Bikash Kumar Singhdeo undertakes to withdraw the said application and shall not pursue with the said complaint.

j. That Shri Bikash Kumar Singhdeo undertakes that he shall not prosecute or proceed with any other complaint, if any filed by him against the plaintiffs with police or any other authority.

k. That the plaintiffs also undertake that they shall not prosecute or proceed with any other complaint, if any filed by them against the defendant with police or any other authority.

l. That the parties have agreed that a compromise decree may be passed in the present suit in terms of the abovesaid settlement and the suit may kindly be disposed off in terms thereof.

3. The settlement being lawful, taking the undertaking given, on record, the suit is decreed in terms of Para 4(a) to 4(l) of the application. Decree sheet be drawn accordingly. The application stands disposed of.

A request of refund of court fees is made by Mr. Sanjeev Sindhwani, learned Sr. Counsel appearing for the petitioner. Noting the fact that even the issues have not been framed and the parties have settled their disputes outside the court, the petitioner shall be entitled to refund of court fees in terms of Section 16 of the Court Fees Act, 1870.

The dated already fixed, i.e., February 5, 2020 stands cancelled.

Dasti.

V. KAMESWAR RAO, J

DECEMBER 20, 2019/jg