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

+ **CS(OS) 208/2019**

VISHANU BHAGWAN @ BALWAN SINGH Plaintiff
Through: Mr. Rajesh Kumar, Mr. S. N.
Chauhan and Mr. Arun Kumar, Advs.
with Plaintiff.

versus

JAYADITTYA PALIT & ORS. Defendants
Through: Mr. Amresh Mathur, Adv. for
Mr.Sanjay Mathur, Advs.

+ **CS(OS) 209/2019**

VISHANU BHAGWAN @ BALWAN SINGH Plaintiff
Through: Mr. Rajesh Kumar, Mr. S. N.
Chauhan and Mr. Arun Kumar, Advs.
with Plaintiff.

versus

JAYADITTYA PALIT & ORS. Defendants
Through: Mr. Amresh Mathur, Adv. for
Mr.Sanjay Mathur, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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15.04.2019

I.As. 5403-5405/2019 (exemptions) in CS(OS) 208/2019 & I.As. 5409-5411/2019 (exemptions) in CS(OS) 209/2019

1. Exemptions allowed, subject to all just exceptions.

I.As. 5406/2019 (condonation of delay) in CS(OS) 208/2019 and I.A. 5412/2019 (condonation of delay) in CS (OS) 209/2019

2. For the reasons stated in the applications, the delay in re-filing the application is condoned and the applications are disposed of.

CS(OS) 208/2019 & CS(OS) 209/2019

3. The learned counsel for the parties state that subsequent to filing of the present suit, in connected matters, the Parties were referred before the Delhi

High Court Mediation & Conciliation Centre. In the said proceedings, a settlement has arrived at between the parties. In terms of the settlement, both the present suits have been agreed to be withdrawn. The said settlement dated 18th February, 2019, inter alia, reads as under;

“1. The Second Party hereby specifically relinquishes all his rights, claims, title, interest etc. in the entire estate of Late Sh. Major Gen. D.K. Palit (retd.) including that arising from the unregistered Will dated 07.12.2006 in favour of the First Party.

2. In consideration of the Second Party relinquishing all his rights, claims, title, interest etc. in the entire estate of Late Sh. Major Gen. D.K. Palit (retd.) including, that arising from the unregistered Will dated 07.12.2006 in favour of the First Party, the First Party has agreed to pay a total sum of Rs.6,00,00,000/- (Rupees Six Crores Only) to the Second Party.

3. It has been specifically undertaken by the First Party that they do not have any rights, claims, interest etc. in J.D.K. Palit Shiksha Samiti which is running the G.D.K. Palit Middle School, Aurangpur, Jhajjar, Haryana and would also not claim any right, interest etc. in the said society/school in future and the Second Party is/shall be solely responsible for all the affairs/management of the said society/school. The Second Party specifically undertakes that he will run the aforesaid society/school bonafidely and will not indulge in any act which may bring disrepute to the name of Late Sh. Major Gen. D.K. Palit (retd.).

4. Out of the aforesaid settled amount of Rs. 6.00,00,000/- (Rupees Four Crores Only), Rs.4,00,00,000/- (Rupees Four Crores Only) shall be paid by the First Party to the Second Party, vide two demand drafts No. 676565 dated 11.02.2019 and No. 676568 dated 11.02.2019 both drawn on Citi Bank,

Murtibai for an amount of Rs. 2,00,00,000/- (Rupees Two Crores Only) each, at the time of the last of the following events:

- i) . Disposal of FAO No. 404/5, pending before the Hon'ble Delhi, High Court, as withdrawn/ disposed off in terms of the present settlement;*
- ii) Disposal of Civil Misc (Main) No. 141/2016, pending before the Hon'ble Delhi High Court, as withdrawn /disposed off in-terms of the present settlement, and vacation of interim orders dated 07.12.2015 and 15.01.2016 passed by the Trial Court;*
- iii) Disposal of Civil Misc (Main) No. 547/2016, pending before the Hon'ble Delhi High Court, as withdrawn/ disposed off in terms of the present settlement and vacation of interim orders dated 07.12.2015 and 15.01.2016 passed by the Trial Court;*
- iv) Disposal of Probate Case-.No.371/14 (New No. 57/16), pending before Ms. Twinkle Wadhwa,-ADJ, Patiala House Court, New Delhi, as withdrawn/ disposed off in terms of the present settlement, and vacation of the all the interim orders passed in the said petition including orders dated 07.12.2015 and 15.01.2016;*
- V) Withdrawal of the two suits filed by Second Party against the First Party & Ors., as disposed of In terms of the present settlement agreement, which have been filed vide diary Nos.7061/2019 and 7082/2019, both dated. 05.01.2019 before Hon'ble High Court of Delhi, thereby challenging, the validity of all the four sale deeds all dated 09.06.2009, executed in furtherance to the registered. WILL dated 14.06.2001 which are at present lying under objection with the Registry of the Hon'ble High Court of Delhi, after getting the same listed before the Hon'ble High Court of Delhi, with prejudice to the Second Party and*
- vi) Handing over of the original unregistered Will dated 07.12.2006 to the First Party or the concerned parties herein jointly getting the said original unregistered Will dated 07.12.2006 sealed on the record of the concerned court*

in accordance with law;

5. That the First Party is apprehensive that the Second Party has created some direct or indirect right, interests etc. based on the unregistered Will dated 07.12.2006. The Second Party, accordingly specifically assures the First Party that should there be any claim/s in furtherance to the same; the Second Party shall deal with the same solely, with no harm to the, First Party. The Second Party agrees to indemnify the First Party to the extent of loss to First Party, if any. As such in this regard, the Second Party agrees that out of the settled amount of Rs.6,00,00,000/- (Rupees Six Crores Only), a sum of Rs.2,00,00,000/- (Rupees Two Crores only shall be deposited with the Registrar General, Delhi High Court for a period of three years, which would be invested in the form of Fixed Deposit Receipts, with due permission of the Hon'ble High Court of Delhi, within seven business days of the last of the events In clause (i) to (vi) vide demand draft No. 676566 dated 11.02.2019 drawn on Citi Bank, Mumbai. The photocopies of the above said three demand drafts, have been handed over by the First Party to the Second Party at the time of the signing of the present Settlement. Agreement and the same are collectively annexed herewith as ANNEXURE -B (COLLY).

6. That the parties herein specifically agreed that the Sum of Rs.2,00,00,000/- (Rupees Two Crores Only) deposited with the Registrar General, Delhi High Court shall be disbursed in the following manner:

a) In the event of neither any claimant coming forward nor any litigation being initiated within a period of three years from the date of signing of the present Settlement Agreement, in furtherance to the Second Party having created any right, interest etc. relating to the aforesaid unregistered Will dated 07.12.2006, the Second Party shall be at liberty to seek withdrawal of the aforesaid amount of Rs.2,00,00,000/- (Rupees Two Crores Only), as deposited

with the Registrar General, Delhi High Court, along with interest accrued thereon till that date.:

b) In the event of any claimant coming forward or any litigation, being initiated within a period of three years from the date of signing of the present Settlement Agreement, in furtherance to the Second Party having created alleged right, interest etc. relating to the aforesaid unregistered Will dated 07.12.2006, thereby impleading the First Party, the First Party, shall be entitled towards the litigation cost at the expense of the Second Party however, subject to the maximum amount of Rs.10,00,000/- (Rupees Ten Lakhs Only), from the amount of Rs.2,00,00,000/- (Rupees Two Crores Only), deposited with the Registrar General, Delhi High Court. Out of the said amount of Rs.10,00,000/- (Rupees Ten Lakhs Only), the First Party shall be at liberty to withdraw a initial sum of Rs.5,00,000/- (Rupees Five Lakhs Only) from the Registrar General, Delhi High Court at the time of the notice / knowledge of the said claim/litigation. The First Party shall be at liberty to withdraw remaining sum of Rs.5,00,000/- (Rupees Five Lakhs Only) from the Registrar General, Delhi High Court, if the said claim/ litigation is not settled by the Second Party within a period of one year of such notice / knowledge to the First Party.

c) In the event of the aforesaid claimant succeeding in such litigation or such litigation ending in a settlement, and the Second Party having to pay such amount/s towards, the same, the Second Party shall be entitled to seek release of such amount/s from the remaining amount of Rs.1,90,00,000/- (Rupees One Crore Ninety Lakhs only) out of the above mentioned. Rs.2,00,00,000/- (Rupees Two Crores only) deposited with the Registrar General, Delhi High Court, for which the second Party shall move an appropriate application/s as may be required from time to time.

d). In the event of the claims being over and above the sum of Rs.1,90,00,000/- (Rupees One Crore Ninety Lakhs only), the same shall be solely dealt and compensated by the

Second Party and the First Party shall not be liable for whatsoever.

e). In the event of any balance amount remaining with the Registrar General, Delhi High Court either after satisfaction of air such aforesaid claim or disposal of all the aforesaid such litigation/s and further upon expiration of three years from the date of signing, of the present settlement agreement, the Second Party shall be entitled for release of the same along with the interest accrued thereon, upon his undertaking to the Hon'ble Court that there is no claim(s)/litigation(s) of any nature pending against him, in respect of property bearing no.1/9 Shanti Niketan, New Delhi or in respect of the unregistered Will dated 07.12.2006.

7. That the Second Party specifically indemnifies the First Party and undertakes that in the event of any claims arising even after the period of three years from the date, of signing of the present settlement agreement in furtherance to the Second Party having created alleged right, interest etc. relating to the aforesaid unregistered Will dated 07.12.2006, thereby impleading the First Party, the same shall be solely dealt and compensated by the Second Party and the First Party shall not be liable for the same in any manner whatsoever.

8. It has been specifically agreed by the Second Party that it would compensate the Third Party, the amount spent by the Third Party towards the cost of the litigation.

9. That the Second Party specifically undertakes that neither him nor any of his legal heirs will, for all times to come, challenge the registered Will dated 14.05.2001 left behind by Late Sh. Major Gen., D.K. Palit (retd.) and the registered four sale deeds, all dated 09.06.2009 pertaining to property bearing No. 1/9, Shanti Niketan New Delhi got executed in furtherance to the registered Will dated 14.06.2001. The First Party shall have all the rights to deal with the entire

estate of Late Sh. Major Gen. D.K. Palit (retd.) as per registered Will dated 14.06.2001 or otherwise, in whatsoever manner it deems fit and proper and the second party shall have no objection in this regard.

10. That during the pendency of the settlement proceedings, the Second Party has filed two suits challenging the four sale deeds all dated 09.06.2009 pertaining to immovable property, bearing No. 1/9, Shanti Niketan, New Delhi-before the Hon'ble High Court of Delhi and the same are lying under objection. The Second Party specifically undertakes that after signing of the present Settlement Agreement, he will withdraw the said suits and further undertakes not to Initiate , any proceedings to challenge the registered four sale deeds all dated 09.06.2009 in the future, or to in any way challenge the purchase of the property by the bona fide third parties.

11. It is specifically agreed between all the parties hereinabove, that all the matters inter-se between the parties as mentioned in the present Settlement Agreement or otherwise, would be withdrawn/ disposed off as being settled by the respective party/ies in terms of the present Settlement Agreement and the other/ remaining party/ies would cooperate in the same.

12. It is also specifically agreed between the parties that they will approach the Hon'ble High Court of Delhi immediately, however, within a maximum period of two weeks from the date of signing of the present Settlement Agreement, by moving appropriate application/s, thereby placing on record the present Settlement Agreement.

13. It is further agreed between the parties that they shall not file any case/ complaint/ litigation In future against each other in respect to the, entire estate of Late Sh. Major Gen. D.K. Palit (retd.) and J.D.K. Palit Shiksha Samiti which is running the G.D.K. Palit Middle -School,

Aurangpur Jhajjarr Haryana.

14. That the contents of the present settlement agreement have been read over to the parties in vernacular by their respective counsels and the mediator(s) and the parties fully understand the contents and implications thereof.

15. That In the event of default on any part of the party/ies or in the event of any of the matters, as mentioned in Clause 4 hereinabove not being disposed off, the parties shall be at liberty to get the respective, matter/s revived in accordance with law.

16. The parties agree that they shall request the Hon'ble Court to pass appropriate orders for refund of Court Fee under Section 16 of the Court Fee Act, 1870.

By signing this Settlement, the parties hereto state that they have no further claims or demands against each other and all their disputes and differences have amicably been settled through the process of mediation.

The parties have agreed and undertake to abide by the terms and conditions of the present Settlement Agreement.”

4. In view of the settlement arrived at between the parties, Plaintiff is permitted to withdraw both the suits. Parties shall be bound by the said settlement.

5. Accordingly, both the suits stand dismissed as withdrawn in terms of the settlement arrived at.

SANJEEV NARULA, J

APRIL 15, 2019

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