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

\+ **RFA 472/2016**

M/S B S LAKHOTIA & CO & ORS ..... Appellants

Through: Mr. Ratnesh Tiwari, Advocate

versus

M/S DEVANSH REAL ESTATE PVT LTD & ORS ..... Respondents

Through: Mr. Bharat Garg,Adv. for Mr. Deepak Gupta, Adv. for R-1(9711979113)

\+ **RFA 728/2016**

VIJAY ABBOT & ORS ..... Appellants

Through: Mr. Harish Malhotra, Sr. Advocate with Mr. Rajesh Bhatia, Hemmant Kakkar and Mr. Shivam, Advocates.

Appellant no.1 in person.

versus

M/S DEVANSH REAL ESTATE PVT LTD & ORS ..... Respondents

Through: Mr. Bharat Garg,Adv. for Mr. Deepak Gupta, Adv. for R-1(9711979113)

Mr. Sandeep Vishnu, Adv. for R-2 (9810394594)

Mr. Ratnesh Tiwari, Advocate for R-3,5,7,8 and 9.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

O R D E R

% 20.02.2019

1. Both these appeals arise from the same impugned judgment and decree dated 16.9.2015. Both these appeals are disposed of with the present

consent order whereby the respondent no.1/plaintiff will receive a total amount of Rs.75 lacs plus Rs.15 lacs i.e a total of Rs.90 lacs from the appellants in these appeals towards full and final satisfaction of the claim of the respondent no.1/plaintiff as per the impugned judgment and decree dated 16.9.2015. It is clarified that though there are a total of 7 appellants in both these appeals, effectively the appeals are being disposed of against all the defendants in the suit except the defendant no.5-M/s Share's Scan and Sh. Deepak Arya-defendant no.7 in the suit. Putting it in other words, on receipt of Rs.90 lacs by the respondent no.1/plaintiff in terms of the present consent order from the persons except defendants no. 5 and 7 in the suit, the claims of the respondent no.1/plaintiff in terms of the impugned judgment and decree dated 16.9.2015 will stand settled and satisfied as against all the defendants in the suit except defendants no. 5 and 7.

2. It is also brought on record that Mr. Sudhir Kumar Jain who is the appellant no.3 in RFA 472/2016 has expired and Sh. Sudhir Kumar Jain was the proprietor of defendants no. 8 and 9 in the suit namely M/s Vaibhav Associates and Vaibhav Investments, and therefore on receipt of the amounts by the respondent no.1/plaintiff from M/s B.S.Lakhotia (as also

stated below) in terms of the present consent order an amount of Rs.15 lacs, the claims in terms of the impugned judgment and decree will stand satisfied as against the defendants no. 6,8 and 9 (essentially the same person namely Sh. Sudhir Kumar Jain).

3. The amount of Rs.75 lacs is being paid by the Abbot Group and who were the defendants no. 1,2,3 and 10 in the suit. On receipt of this amount of Rs.75 lacs by the respondent no.1/plaintiff from the Abbot Group, the claims of the respondent no.1/plaintiff against the Abbot Group in terms of the impugned judgment and decree will stand satisfied.

4. The claims of the respondent no.1/plaintiff against all the defendants in the suit, except defendant no.5-M/s Share's Scan and defendant no.7 Sh. Deepak Arya, will be satisfied only provided that the other defendants in the suit/ the appellants in these two appeals, would make payments within a period of four months in four equal instalments. The first month instalment for the payment commences from 15^{th} of February to 15^{th} of March i.e first instalment will be payable on or before 15.3.2019. The second, third and fourth instalments will be paid on or before 15.4.2019, 15.5.2019 and 15.6.2019.

5. It is also further clarified that Rs.75 lacs will paid in four equal instalments as stated above by the Abbot Group and Rs.15 lacs will be paid in four equal instalments on behalf of defendants no. 6,8 and 9 in the suit i.e Sh. Sudhir Kumar Jain Group, and which Sh. Sudhir Kumar Jain was the appellant no.3 in RFA 472/2016 and M/s Lakhotia Group and who are defendants no. 4,6,8,9 and 11**.**

6. Therefore, a total sum of Rs.90 lacs i.e Rs.75 lacs by the Abbot Group and Rs.15 lacs by Sh. Sudhir Kumar Jain and Lakhotia Group, will be paid in terms of the present order to the respondent no.1/plaintiff in four equal monthly instalments as stated above. However, it is made clear that in case the amounts are not paid in four equal instalments as stated above, the entire impugned judgment and decree will stand revived as against the concerned defaulting group i.e qua the Abbot Group on non-payment of Rs.75 lacs, and qua the Lakhotia Group and Sh. Sudhir Kumar Jain on non-payment of Rs.15 lacs.

7. Counsel for the respondent no.1/plaintiff will give the details of the bank account of the respondent no.1/plaintiff to the counsels for the appellants who are appearing in Court today so that the appellants, and who

would include the relevant defendants agreeing to pay the amount in terms of the present order, can deposit the amount directly in the bank account of the respondent no.1/plaintiff. Needful be done within a period of one week from today.

8. The appellants in these appeals and all other persons who are liable to make payment to the respondent no.1/plaintiff in terms of the present order will file their affidavits of undertakings in this Court in terms of the present order within a period of 10 days from today.

9. It is further clarified that for the Sudhir Kumar Jain Group, payment will be made by Mr. Baldev Dass Lakhotia, and therefore, undertaking of Mr. Baldev Dass Lakhotia will be treated as an undertaking on behalf of defendants no. 6,8 and 9 namely Sh. Sudhir Kumar Jain, M/s Vaibhav Associates and Vaibhav Investments, Sh. Sudhir Kumar Jain being the appellant no.3 in RFA 472/2016.

10. It is once again clarified that these appeals will only compromise the impugned judgment and decree between the appellants in these appeals as also the other persons who will be representing the appellants, but not as against the defendants no. 5 and 7 in the suit namely

M/s Share’s Scan and Mr. Deepak Arya, and as against these defendants, the respondent no.1/plaintiff can execute the impugned judgment and decree.

11. These appeals and all pending applications are accordingly disposed of in terms of the aforesaid consent order, leaving the parties to bear their own costs.

VALMIKI J. MEHTA, J

FEBRUARY 20, 2019/ib