

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1390 OF 2014

Mr.Jagannath Krishnaji Deore	]	...	Appellant
V/s.			
M/s.Royal Enterprises	]	...	Respondent

Mr.Santaram A. Tarale, for Appellant.
Mr.Hitesh Vyas for Respondent.

**CORAM : K.K.TATED, &
N.R. BORKAR, JJ.**

DATE : 15 OCTOBER, 2020.
(Through Video Conferencing)

P.C. :

1] Heard learned counsel for parties.

2] Learned counsel for Appellant submits that the Appellant and Respondent No.1 are present in his office and the matter is settled between them. He submits that Appellant may be permitted to delete names of Respondent Nos.2 to 5. Same is permitted.

3] Both the learned counsels submits that the matter is settled out of Court. They forwarded Consent Terms dated 2 October, 2020 duly signed by the Appellant as well as Respondent No.1. Learned counsel for appellant submits that he undertakes to forward the

Consent Terms signed by both the parties on each page. Same is accepted. Considering these facts, following order is passed :

- a] First Appeal stands disposed of in terms of Consent Terms.
- b] Consent Terms to be treated as part and parcel of the

Decree, which reads thus :

CONSENT TERMS

“Consent terms filed on behalf of the Appellant and the Respondent are as follows :

1. That the Respondent No.1/Original Plaintiff filed a special civil suit no.105 of 2008 for a monetary claim of Rs.1,20,00,000/- against the Appellant/Original Defendant. Respondent No.1 had also prayed for the creation of charge for the decretal sum against the suit property and enforcement of the said charge. Respondent No.1 herein also prayed for the Injunction against the Appellant herein from transferring or creating third party interests in the suit property.
2. That the parties herein contested the suit and by Judgment and Decree dated 25-06-2014 by the Ld. Joint Civil Judge Senior Division Pune, at Pune partially decreed the Special Civil Suit No.105 of 2008, and thereby the Appellant herein was held liable to pay the sum of Rs.1,00,00,001/- (Rupees One Crore One only) to the Respondent No.1 herein alongwith interest @ of 6% p.a. from the date of filing of the suit till realization of the decretal amount.
3. That the appellant has challenged the Decree dated 25th June 2014, passed by the Hon’ble Civil Judge, Senior Division, Pune, in Special Civil Suit No.105/2008, the Appellant in the said Appeal preferred Civil Application No.1487 of 2015 for a stay of execution of the Impugned Decree.
4. That by order dated 15-07-2015 (Coram : A.S. Oka & Revati Mohite Dere JJ), this Hon’ble Court was pleased to grant interim relief of prayer clause (a), subject to the condition the Applicant/Appellant depositing 75% of the decretal amount payable as of the date of order within three months. Accordingly, the Appellant herein has deposited an amount of Rs.1,08,75,000/- (Rupees One Crore Eight Lakh Seventy-Five Thousand only) on 14-10-2015 with 2nd Joint Civil Judge Pune, at Pune.

5. That during the pendency of the present Appeal, the parties have arrived at an amicable settlement, and the parties have decided as follows -

a. It is agreed between the parties that as and by way of full and final settlement, the Appellant shall pay an amount of Rs.1,00,00,001/- (Rupees One Crore One only) out of the above said deposited amount to the respondent No.1 i.e. M/s.Royal Enterprises and Respondent No.1 has accepted the same.

b. It is agreed between the parties that the Respondent No.1 i.e. M/s. Royal Enterprises out of an amount of Rs.1,08,75,000/- (Rupees One Crore Eight Lakh Seventy-Five Thousand only) deposited by Appellant on 14-10-2015 with 2nd Joint Civil Judge Pune, at Pune be allowed to withdraw the amount of Rs.95,00,001/- (Rupees Ninety- Five Lakhs One only), and/or the Appellant herein has no objection if the said amount of Rs.95,00,001/- (Rupees Ninety-Five Lakhs One only) is transferred by the Nazar Department Pune, directly in the amount of Respondent No.1.

c. That Respondent No.1 has executed Lis-Pendens, which is registered in the office of Sub-Registrar Vadgaon Maval, vide document at Sr. No.1604/2008 dated 15/02/2008 and the effect of which has been given to the Revenue Record, vide ferfar no.17954 dated 18/02/2008. That the Respondent also undertakes to unconditionally withdraw the said Lis-Pendence and also remove the Entry of the said Lis-Pendence from the revenue record. That after removal of the said Entry from the revenue record, the Appellant herein shall pay the remaining amount of Rs.5,00,000/- to Respondent No.1, immediately by way of NEFT/RTGS.

d. The Bank details of Respondent No.1 is as under :
M/s. Royal Enterprises
HDFC Bank, Branch-VAPI
Current Account No: 01702560003256
RTGS/NEFT-IFSC : HDFC0000170

e. It is agreed between the parties that the Appellant will be at liberty to withdraw the remaining balance amount of Rs.13,74,999/- (Rupees Thirteen Lakhs Seventy-Four Thousand Nine Hundred and Ninety-Nine Only) or more and/ Respondent No.1 does not have any objection to transfer the amount of Rs.13,74,999/- (Rupees Thirteen lakhs Seventy-Four Thousand Nine Hundred and Ninety-Nine Only) or any other amount including any interest accrued on the entire amount of Rs.1,08,75,000/- (Rupees One Crore Eight Lakhs Seventy-Five

Thousand Only) is transferred by the Nazar Department Pune directly in the account of Appellant.

- f. *The Bank details of Appellant is as under:*
MR.JAGANNATH KRISHNAJI DEORE
COSMOS BANK, UNIVERSITY ROAD BRANCH,
GANESHKHIND, PUNE – 411007,
SAVINGS BANK ACCOUNT
NO.0900501010982,
IFSC COSB 0000090

g. *On receipt of the aforesaid amount of Rs.1,00,00,001/- (Rupees One Crore One only) by the Respondent No.1, the Decree dated 25th June 2014, passed by the Hon'ble Civil Judge, Senior Division, Pune, in Special Civil Suit No.105/2008, stands satisfied, neither the party nor anyone including any other partner, legal heir of any partner, legal representative of any partner of the Respondent No.1 and/or the HUF of the Kankariya family, claiming through the Respondent No.1, shall initiate any legal proceedings against each other in future, pertaining to the subject matter of the said suit.*

h. That not only parties to the present Appeal shall be bound by these consent terms, but the said consent terms shall be binding jointly and severally to all the other partners of the Respondent No.1 – Firm/ Royal Enterprises.

i. That by virtue of realization of Rs.1,00,00,001/- (Rupees One Crore One only) payment made by the Ld. Trial Court and Appellant to the Respondent No.1, all the disputes between the parties pertaining to the subject matter of the said suit and the present Appeal shall stand resolved, and neither the party has any grievance against each other.

j. That the Respondent shall withdraw the execution proceeding initiated by it before the Learned Civil Judge, Senior Division, Pune, bearing Special Darkhast No.57/2015.

6. That by virtue of aforesaid payment made by the Appellant to the Respondents, all the disputes between the parties pertaining to the subject matter of the said suit and present Appeal have been resolved, and neither party has any grievance against each other. Without admitting any of the adverse allegations and the claims made against each other all the Parties have withdrawn the rival claims and allegations so made against each other.

7. That since the parties have amicably settled their disputes

on the abovementioned terms and conditions, the present Appeal deserves to be disposed of.”

c] Amendment to be carried out in the First Appeal.

d] No order as to costs.

e] This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on a digitally signed copy of this order.

[N.R.BORKAR, J]

[K.K.TATED, J]