

CORAM : G. S. PATEL J.

Date : 23/01/2020

Consent terms taken on file & marked as
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

23/01/2020
X
X
mBawal

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. ³⁴33 OF 2020

In the matter of Section 9 of Arbitration
& Conciliation Act, 1996;

And

In the matter of Award dated 8th May,
2017.

And

In the matter of settlement between the
parties in respect of immovable property
and for discharge of the Court Receiver,
High Court, Bombay as Receiver thereof.

Urmilaben Manilal Dhimmar)
Aged 70 years Occ. Household)
of Mumbai Indian Inhabitant)
residing at Room No.2/6, Kokanipada,)
Kurar, Malad (East), Mumbai 400 097.) ...Petitioner.
(Orig.Claimant)

Versus

Dahyabhai Sukhabhai Dhimmar)
of Mumbai Indian Inhabitant)
aged about 70 year, Occ : business)
residing at Room No.8, Kilekar Chawl)
Vaisat Pada, Near Santoshi Mata Mandir)
Kurar Village, Malad (E), Mumbai 400 097] .. Respondent.
..(Orig.Opponent)

AND

Kewal Kiran Clothing Limited)
Having address at Kewal Kiran Estate)

460/7, I.B. Patel Road, Goregaon (East),)

Mumbai 400063.)

....Respondent in
the present Petition

CONENT TERMS BETWEEN THE PARTIES HERETO :

1. The Respondent Dahyabhai Sukhabhai Dhimmar agrees and undertakes to this Hon'ble Court to purchase the movable properties at Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand only) and to make payment of the said amount of Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand only) to the Petitioner by Pay order on or before 29th January, 2020. Upon receipt of the Pay order by the Petitioner, the Petitioner's bid for Rs. 6,25,000/- (Rupees Six Lakhs Twenty Five Thousand only) shall be deemed to have been withdrawn. The Court Receiver, High Court, Bombay shall thereupon return to the Petitioner the Pay order deposited by the Petitioner.
2. The Petitioner, Urmila Manilal Dhimmar and the Respondent Dahyabhai Sukhabhai Dhimmar shall surrender the tenancy rights in respect of Gala No.N/7, Gautam Chemicals Compound, I.B.Patel Road, Goregaon (West), Mumbai: 400 063 (said Gala) and all their rights, title and interest in the said Gala unto and in favour of Kewal Kiran Clothing Limited (Respondent in this Petition) as the landlords of the said Gala and in pursuance thereof, the Respondent shall hand over vacant and peaceful possession of the said Gala to the Landlord on or before but latest by 29th January, 2020 and the Petitioner confirms the same.
3. The Petitioner and the Respondent shall execute and hand over to the said Landlord Deed of surrender in the form as is annexed hereto and marked Annexure "A" at the time of handing over vacant and peaceful possession of the said Gala and shall make themselves available for registration of the said deed before the

Sub Registrar of Assurances on or before but latest by 29th January, 2020.

4. In consideration of the Surrender of Tenancy of the said Gala the Landlord has agreed to pay an amount of Rs. 75,00,000/- (Rupees Seventy Five Lakhs only) each to the Petitioner and the Respondent respectively subject to the deduction of Tax at Source (TDS).
5. As against the Landlord accepting the surrender of tenancy of the said Gala and receiving vacant and peaceful possession of the said Gala and the Petitioner and the Respondent executing the Deed of Surrender in respect of the said Gala and making themselves available for registration of the said deed before the Sub Registrar of Assurances on or before 29th January, 2020, the Landlord shall simultaneously upon execution and registration of the said Deed pay by cheque to the Petitioner and the Respondent respectively an amount of Rs.75,00,000/- (Rupees Seventy Lakhs only) each subject to the deduction of TDS. The Landlord undertakes to this Hon'ble Court that the cheques so issued to the Petitioner and the Respondent shall not be dishonoured.
6. The Respondent Dahyabhai Dhimmarr, as the person in possession and doing business from the said Gala shall before handing over possession of the said Gala to the Landlords clear all the outstanding in respect of the said Gala including but not limited to maintenance, taxes, electricity bills, water charges, if any etc. and in the event any other claims are found outstanding, then the same shall be the absolute liability of the said Respondent Dahyabhai Dhimmarr and the Respondent Dahyabhai Dhimmarr undertakes to keep the Landlord indemnified against any such claims.
7. Upon the Surrender of tenancy in respect of the said Gala and handing over vacant and peaceful possession of the said Gala to the Landlord, neither the Petitioner and the Respondent nor any

of their heirs or any persons claiming through or under them shall have any claim, right, title or interest in respect of the said Gala or any portion thereof.

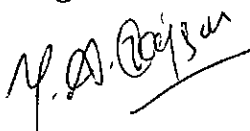
8. In view of the aforesaid, upon the surrender of tenancy and handing over of vacant and peaceful possession of the said Gala by the Petitioner and Respondent to the Landlord and upon the encashment of the cheques issued by the Landlord to the Petitioner and Respondent, the Court Receiver, High Court, Bombay shall stand discharged as the Receiver of the said Gala.
9. In the event, if the Respondent fails to make payment of Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand only) to the Petitioner or fails to remove himself and his belongings and fails to hand over vacant and peaceful possession of the said Gala to the Landlord by clearing the outstanding dues on or before 29th January, 2020, then the Court Receiver, High Court, Bombay shall within seven days thereafter take forcible possession of the immovable property being aforesaid Gala No. N/7 from the Respondent Dahyabhai Dhimmarr or whosoever is found in possession and also all movables lying therein after making inventory of all the movables and submit Report to this Hon'ble Court for further directions in the matter.
10. The parties agree to abide by the aforesaid Consent Terms in letter and spirit.

Dated : 23/01/2020

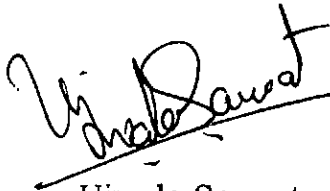


Urmilaben Manilal Dhimmarr
Through Rakesh Manilal Dhimmarr
As her Constituted Attorney

For Legal Chartered,



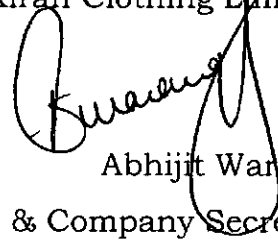
Advocates for Petitioner



Ujwala Savant,
Advocate for Respondent.


Dahyabhai Sukhabhai Dhimmar
The Respondent

For Kewal Kiran Clothing Limited,


Abhijit Warange

Vice President – Legal & Company Secretary
Respondent in present Petition.



M/s. Pandya & Co.

Advocate for Kewal Kiran Clothing
Limited

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2020

Urmilaben Manilal
Dhimmar ...Petitioner.

Versus

Dhayabhai Sukhaabhai
Dhimmar .. Respondent.

AND

Kewal Kiran Clothing
Ltd. ...Respondent

CONSENT TERMS

Dated this ²⁴23 day of January, 2020

LEGAL CHARTERED,
ADVOCATES FOR PETITIONER
ENGINEERS PREMISES, 1ST FLOOR,
MUMBAI SAMACHAR MARG, FORT,
NEAR BSE, MUMBAI 400001.
Mob. No.98928 03138.