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

+ **CS(OS) 1004/2012**

BALDEV RAJ GADHOK Plaintiff

Through: Mr. Arun Nischal, adv.

versus

SUMAN KUMAR GADHOK & ORS Defendants

Through: Mr. Prag Chawla, Mr. Sudhir Talwar
and Mr. Sudeep Sudan, Adv. for D1
and D2.

Mr. a.K. Dhupar, Adv. for D3 to D5.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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28.01.2020

I.A. 518/2020

1. This is an application filed under Order XXIII Rule 3 read with Section 151 CPC with the following prayers:

- “a. Pass a Compromise Decree in terms of Settlement Deed dated 05.01.2020 between Plaintiff and Defendant No.1 and 2.*
- b. Pass any other order (s) which this Hon’ble Court may deem fit.”*

2. This application is primarily filed by the plaintiff and is accompanied by his affidavit.

3. When the matter was listed on January 16, 2020, learned counsel for the parties stated that all parties shall file their supporting affidavits to the application. Affidavits have been filed by defendant nos. 1 to 5. In the application, the plaintiff has stated that he has settled the matter with the defendant nos. 1 and 2 in terms of Settlement Deed dated January 5, 2020

attached to the application as document “A”.

4. Learned counsel for the parties have drawn my attention to the affidavits filed by defendant nos. 1 to 5. Defendant nos. 1 and 2 have acknowledged the fact that they have compromised the matter with the plaintiff in terms of the Settlement Deed dated January 5, 2020 and the application in that regard having been filed under Order XXIII Rule 3 read with Section 151 CPC, the contents of which are true and correct. Similarly, defendant nos. 3 to 5 have also acknowledged the fact that plaintiff and defendant nos. 1 and 2 have compromised the matter vide Settlement Deed dated January 5, 2020. They also acknowledged the fact that an application under Order XXIII Rule 3 read with Section 151 CPC has been filed. They also state, they have no objection to the settlement arrived at between the plaintiff and defendant nos. 1 and 2 and pray that the Suit be disposed of in terms of the application under Order XXIII Rule 3 read with Section 151 CPC. The terms of Settlement Deed dated January 5, 2020 reads as under:

- “1. That the first party with a view to settle all his disputes, claims, right, title, interests, shares, etc with regard to property in question i.e. property bearing no. 36A, DLF Industrial Area, Moti Nagar, New Delhi-110015, admeasuring 962 sq. yds and the said civil suit pending before the Hon'ble Delhi High Court has agreed to give-up / relinquish all his right, title, interests, claims, share of any nature whatsoever in the property bearing no. 36A, DLF Industrial Area, Moti Nagar, New Delhi-110015, admeasuring 962 sq. yds in favour of Sh. Udit Gadhok S/o Sh. Suman Kumar Gadhok R/o C-67, Kirti Nagar, New Delhi-110015 (one of the party of the Second part/ defendant No.2 in the said suit)*
- 2. That in lieu of what has been stated above, the Second Party, either solely or jointly, shall pay a total sum of Rs.3,00,00,000/- (rupees three crores only) to the First Party as full and final settlement amount towards full and final settlement of all his*

claims, right, title, interests, share of any nature whatsoever in the property bearing no. 36A, DLF Industrial Area, Moti Nagar, New Delhi-110015, admeasuring 962 sq. yds and the said civil suit pending before the Hon'ble Delhi High Court. The Second party shall pay the aforesaid amount as per following schedule through Bankers' Cheque to the First Party:

<i>At the time of recording of Statement of Settlement before Hon'ble Delhi High Court First Installment.</i>	<i>Rs.1,00,00,000/- (rupees one crore only)</i>
<i>On or Before expiry of three months from the aforesaid statement date Second Installment.</i>	<i>Rs.50,00,000/- (rupees fifty lakhs)</i>
<i>On or Before expiry of three months from Second Installment date Third Installment.</i>	<i>Rs.50,00,000/- (rupees fifty lakhs)</i>
<i>On or Before expiry of three months from the aforesaid third instalment date. Fourth / Final Installment.</i>	<i>Rs.1,00,00,000/- (rupees one crores)</i>
<i>TOTAL FOUR INSTALLMENTS (to be paid within 9 months from the date of recording of the statement of settlement before the Hon'ble Delhi High Court</i>	<i>TOTAL Rs. 3,00,00,000/- (rupees three crores only)</i>

3. *That in the event of death of any of the parties, successor(s), survivor (s) and Legal Heir(s) of the deceased party shall be bound by the terms and conditions of the Deed of Settlement and the terms and conditions of the Deed of Settlement, if required and called upon by the affected party, shall be fulfilled/executed by the successor(s), survivor(s) and Legal Heir(s) of the deceased party.*
4. *That it is agreed between the parties that after the initial payment of Rs.1,00,00,000/- before the Hon'ble Delhi High*

Court, the Second Party shall have to right to enter into Collaboration Agreement and create interest of the Builder willing to collaborate with the Second Party in respect of the property bearing no.36A, DLF Industrial Area, Moti Nagar, New Delhi-110015, admeasuring 962 sq. yds and the First party shall not raise any objection to it in any manner whatsoever.

- 5. That it has been agreed between the parties that the Second Party after the initial payment of Rs.1,00,00,00/- the Second Party shall be entitled to withdraw all the 1/3rd rental / security amounts deposited in the name of The Registrar, Delhi High Court (either in the Civil suit no. 1004/2012 or in the FAO (OS) 493/2013 and FAO(OS) 613/2015) by the Second party as per the orders dated 26.11.13 and 19.1.2016 of the Hon'ble Division Bench of the Delhi High Court and the First Party shall have no objection to the same and shall also assist the Second Party in withdrawing the same from the Hon'ble Delhi High Court.*
- 6. That in case the Second Party fails to pay the entire settled above mentioned amount to the First Party as per the scheduled mentioned herein above, the amount already paid by the Second Party to the First Party shall be forfeited and the Second Party shall have no right to claim the amount already paid to the First Party. In the event of non-payment of abovementioned settled amount the right of the First Party to claim the reliefs and revive his civil suit bearing no. CS(OS) 1004/2012 shall accrue and arise in favour of the first party.*
- 7. That it is under-stood and agreed by the parties that after receipt of the entire amount of Rs.3,00,00,000/- (Rupees Three Crore) by the First Party, the First Party shall cease to have any claim, right, title, interests, share, etc of any nature whatsoever in the property bearing no. 36A, DLF Industrial Area, Moti Nagar, New Delhi admeasuring 962 Sq. yds. The first party after the receipt of the aforesaid amount and as and when called upon by the Second Party shall also execute a relinquishment deed in favour of Sh. Udit Gadhok S/o Sh. Suman Kumar Gadhok R/o C-67, Kirti Nagar, New Delhi in respect of all/ any of his claim, right, title, interests, share, etc*

of any nature whatsoever in the property bearing no. 36A, DLF Industrial. Area, Moti Nagar, New Delhi admeasuring 962. Sq. yds. It is further agreed between the parties that in case the First Party fails to come forward for executing the aforesaid relinquishment deed after receipt of above mentioned amount of Rs.3,00,00,000/-(Rupees Three Crores), the Second Party shall be liable to receive a sum of Rs.3,50,00,00/- (Rupees Three Crores Fifty Lakhs) from the First Party by initiating appropriate legal proceedings before the Hon'ble Delhi High Court including execution proceedings, etc.

- 8. That the First Party after receipt of abovementioned amount of Rs.3,00,00,000/- (either within the period of 9 months as mentioned in the schedule or earlier) shall when called upon by the Second Party immediately execute the above-mentioned relinquishment deed and after the receipt of the aforesaid amount neither First Party nor his successor(s), survivor(s) and Legal Heir(s) shall have any claim, right, title, interests, share of any nature whatsoever in the property bearing no.36 A, DLF Industrial Area, Moti Nagar, New Delhi, admeasuring 962 sq. yds.*
- 9. That Sh. Udit Gadhok S/o Sh. Suman Kumar Gadhok R/o C-67, Kirti Nagar, New Delhi shall be the absolute owner thereof the entire Property bearing no. 36A, DLF Industrial Area, Moti Nagar, New Delhi, admeasuring 962. Sq. yds . The First Party, or his successor(s), survivor(s) and Legal Heir(s) renounce all claims with regard to aforesaid property.*
- 10. The parties include their respective heirs and successors. The parties hereby declare that they have obtained independent legal advice and they are executing this deed with their own free will.*
- 11. That it has been agreed that the parties shall move appropriate application before the Hon'ble Delhi High court for recording this settlement and shall make this deed of settlement an integral part of the said application for passing appropriate orders by the Hon'ble Court.”*

5. In terms of Clause 2 of the Settlement Deed, Mr. Prag Chawla, learned counsel appearing for the defendant nos. 1 and 2 has handed over to

the learned counsel for the plaintiff a cheque bearing no. 000174 dated January 22, 2020 drawn on Kotak Mahindra Bank, Alwar, Bhiwadi, Rajasthan for Rs.99 Lacs after deducting 1% TDS, in the name of the plaintiff. Mr. Chawla states, on presentation the said cheque shall be honoured. Learned counsel appearing for the plaintiff acknowledges the receipt of the same.

6. Learned counsel appearing for the plaintiff (on instructions from the attorney of the plaintiff) and the counsel for the defendants state that the Suit be decreed in terms of Settlement Deed dated January 5, 2020, which are reproduced above. They also state that the parties shall be bound by the terms of the settlement. Accordingly, the Suit is decreed in terms of the Settlement Deed dated January 5, 2020 between the plaintiff and defendant nos. 1 and 2 to which defendant nos. 3 to 5 have given their consent. Decree sheet be drawn accordingly.

Application stands disposed of. Pending application (s), if any, have become infructuous and disposed of as such. No costs.

V. KAMESWAR RAO, J

JANUARY 28, 2020/jg