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

+ **CS(OS) 119/2017**

SHRI JEEVAK LAL

..... Plaintiff

Represented by: Mr.Y.P. Narula, Sr. Advocate with
Ms.Kirti Singh and Ms.Nidhi Nagpal,
Advocates.

versus

SHRI KRISHAN KUMAR GAUTUM AND ANR..... Defendants

Represented by: Mr.Ajay Sharma, Advocate for
defendant Nos.1 and 2.
Mr.Akash Lal, Defendant No.3 in
person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

24.02.2020

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CS(OS) 119/2017

1. Present suit was filed by Jeevak Lal, the plaintiff impleading Krishan Kumar Gautam and Sanjeev Gautam as defendant Nos.1 and 2 and his brother Akash Lal as defendant No.3 before the Noida District Court as Suit No.529/2011 titled as '*Jeevak Lal vs. Krishan Kumar Gautam and others*'.
2. In the said suit the plaintiff had sought recovery of possession and mesne profit from defendant Nos.1 and 2 in respect of the suit property being D-130, Sector -36, Noida, U.P.
3. The said suit was transferred to this Court by the Hon'ble Supreme court in Transfer Petition (Civil) No. 1491/2014 and has now been numbered as CS(OS) 119/2017 before this Court. The suit property, that is,
CS(OS) 119/2017

D-130, Sector-36, Noida, U.P. was initially owned by the father of plaintiff and defendant No.3. Defendant No.3 had got recorded his statement before the court stating that he had already sold his 50% share of the suit property to one Ram Rattan in the year 1998 and the said Ram Rattan further sold the 50% share of the suit property to defendant Nos.1 and 2 vide sale deed dated 1st September, 2017. The dispute in the present suit was thus between the plaintiff and defendant Nos.1 and 2 as the plaintiff claimed that he had not sold his 50% share to defendant Nos.1 and 2 whereas defendant Nos.1 and 2 claim that the same had been sold by virtue of general power of attorney.

4. During the pendency of the present suit plaintiff and defendant Nos.1 and 2 have entered into a settlement before the Delhi High Court Mediation and Conciliation Centre on 10th January, 2020. Copy of the settlement agreement is placed on record. Plaintiff who has been treated as first party and defendant Nos.1 and 2 who have been treated as second party have settled the dispute in the suit relating to the suit property being D-130, Sector-36, Noida, U.P. on the following terms as under:

1. *The Second party shall pay an amount of Rs. 2,80,00,000/- (Rupees Two Crores and Eighty Lakhs Only) to the First Party by way of full and final settlement on account of share of First Party in the said property. The said amount of Rs. 2,80,00,000/- (Rupees Two Crores and Eighty Lakhs Only) shall be paid by the Second party to First party by way of two instalments in the following manner:*

(i) *The Second party shall pay to the First Party an amount of Rs. 2,00,00,000/- (Rupees Two Crore Only) by way of Demand Draft number 483114 dated 10.01.2020 drawn on State Bank of India, Noida at the time of signing of this agreement.*

- (ii) *The remaining sum of Rs. 80,00,000/- (Rupees Eighty Lakhs Only) shall be paid by the Second Party to the First Party by way of Demand Draft on 22.02.2020.*
2. *The Second Party undertakes to abide by the above-mentioned payment schedule and shall not be entitled for any extension of time for any of the above said instalments.*
 3. *It is agreed that if the Second Party defaults on the terms of the present Agreement or in case of any delay in payment of the Settlement amount by the Second party, the First Party shall be entitled to receive interest @ 18% per annum on the balance amount of Rs.80,00,000/- (Rupees Eighty Lakhs only) from the Second Party until the realization of Settlement amount. Further, the First Party shall also have the right to initiate contempt proceedings against the Second Party and the present suit filed by the First Party shall stand decreed in terms of this agreement/ settlement.*
 4. *The Second Party agrees to appear before this Hon'ble Court and record their undertaking before the Court to abide by the terms of the present settlement. The First Party further agrees to withdraw the present suit i.e Suit CS(OS) No. 119 /2017 after receiving the full and final amount of settlement in terms of aforementioned instalments. The Parties also agree that after the payment of the full amount of Rs. 2,80,00,000/- (Rupees Two Crores and Eighty Lakhs Only), the first Party shall have no claim against the Second Party in Suit No. CS(OS) No.695/ 1998.*
 5. *The Parties agree that time is of the essence in the present agreement as the First Party is a senior citizen, and has already suffered a lot due to this ongoing litigation since the past many years. The Second Party, therefore, undertakes to strictly adhere to the terms of the present Agreement and in particular to the payment schedule as elucidated in Clause 1 (i) and (ii) of the present agreement.*

6. *Subject to the terms of the present agreement being strictly complied with, the First Party shall not initiate any fresh criminal or civil proceedings against the Second Party in respect of the present dispute.*
7. *However, in case the Second Party defaults in making payments of the settlement amount within the time period stipulated in the present Agreement or retracts from any of the terms mentioned above, the First Party shall be entitled to initiate proceedings under Criminal and Civil Law, including contempt proceedings.*
8. *That the consent of both the parties have not been obtained by fraud, coercion or undue influence and the present settlement is being entered into and signed by both the parties out of their own free will.*

5. The settlement agreement is duly signed by the plaintiff and defendant No. 1 and defendant No.2. Defendant No.3 is proforma party in the suit as noted above. Defendant No. 3 is also present in Court today and this Court has affirmed from him as to whether he has any interest in the suit property. Defendant No. 3 reiterates that he had already sold his 50% share and thus left with no interest in the suit property.

6. Learned counsel for the plaintiff states that the plaintiff has already received a sum of ₹2 crores and a further sum of ₹80 lakhs has been received by him by way of a demand draft bearing No.483580 dated 24th February, 2020 drawn on State Bank of India. In view of a sum of ₹2.80 crores having been received through two demand drafts, learned counsel for the plaintiff seeks leave to withdraw the present suit.

7. Suit is accordingly disposed of as withdrawn.
8. In view of the fact that the parties have settled the dispute in the suit before the Delhi High Court Mediation and Conciliation Centre, court fee is directed to be refunded to the plaintiff under Section 16 of the Court Fees Act. Registry will issue necessary certificate in this regard.

CRL.M.A. 9618/2019 (under Section 340 Cr.P.C.)

CRL.M.A. 32603/2019 (under Section 340 Cr.P.C.)

Applications are disposed of as withdrawn.

MUKTA GUPTA, J.

FEBRUARY 24, 2020

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