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

+ **CS(OS) 364/2017**

MS. KANGAN SINGH Plaintiff

Represented by: Mr. Vijay Gupta, Advocate.

versus

SH. KUNDAN GUGNANI & ORS. Defendants

Represented by: Mr. Naveen Sharma, Adv. for D-1.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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08.07.2020

The hearing has been conducted through Video Conferencing.

I.A. 5322/2020 (under Section 151 CPC-urgent hearing -by defendant No.1)

1. By this application the defendant No.1 prays that the suit be decreed in terms of the settlement dated 3rd March, 2020 arrived at between the parties before the Delhi High Court Mediation and Conciliation Centre.
2. Notice. Learned counsel for the plaintiff/ non-applicant accepts notice.
3. Learned counsel for the plaintiff/ non-applicant states that the plaintiff has received the entire amount as per the settlement and consequently the suit be decreed in terms of the settlement.
4. Application is consequently disposed of decreeing the suit in terms of the settlement.

CS(OS) 364/2017

1. Parties have entered into a settlement before the Delhi High Court Mediation and Conciliation Centre on 3rd March, 2020 on the following

terms and conditions:

“1. That it has been mutually and voluntarily agreed between all the parties that Ms. Kangan Singh has no subsisting right, title and interest in the properties as mentioned hereinabove by virtue of an amicable settlement reduced in writing in Memorandum of Oral Family Settlement dated 27.5.2003, which was decreed by the Hon'ble High Court of Delhi, vide judgment and order dated 31.7.2003 passed in Suit No. 1797/2000 titled as Mohan Singh & Ors. Vs. Govind Singh & Ors.

2. That it has now been agreed by the Second and Third Party jointly that inasmuch as Ms. Kangan Singh is mentally retarded person and is totally and solely dependent upon her next friend, i.e., Mr. Ashok Khanna, after demise of her father, namely. Late Shri Mohan Singh and on amicable and mutual settlement entered into among the parties without without any force, pressure or coercion, the Second and Third Party jointly intend to compensate Ms. Kangan Singh, including her mother Smt. Rajni Singh W/o Late Shri Mohan Singh, her brother Sh. Subodh Singh S/o Late Shri Mohan Singh and other relatives and/or next friend a sum of Rs.38,00,000/- (Rupees Thirty Eight Lacs only) towards full and final settlement amount in order to give quietus to all the litigations including civil and/or criminal whatsoever.

3. That the aforesaid amount of Rs. 38,00,000/- (Rupees Thirty Eight Lakhs Only) has been handed over by Second Party and the Third Party to the First Party by way of four cheques. The details of which are as follows:-

- a. Cheque bearing No. 000398 dated 15.01.2020 drawn on HDFC Bank, Chandi Chowk, New Delhi for a sum of Rs. 6,33,335/- by Sh. Jinender Kumar Jain in favour of Ms. Kangan Singh.*
- b. Cheque bearing No. 015230 dated 16.01.2020 drawn on ICICI Bank, Chandi Chowk, New Delhi for a sum of Rs. 6,33,335/- by Sh. Sanjeev Jain in favour of Ms. Kangan Singh.*

- c. *Cheque bearing No. 000002 dated 04.03.2020 drawn on HDFC Bank, Chawri Bazar, New Delhi for a sum of Rs. 6,33,335/- by Sh. Umesh Sharma in favour of Ms. Kangan Singh.*
- d. *Cheque bearing No. 025232 dated 08.03.2020 drawn on ICICI Bank, Chanakyapuri Branch, New Delhi for a sum of Rs. 19,00,000/- by Sh. Kundan Lai Gugnani in favour of Ms. Kangan Singh.*

That all the aforesaid cheques are made in discharge of their commitment in the present Settlement Agreement coupled with the undertaking of the Second Party and the Third Party that all the post-dated cheques shall be honored without any exception. The said cheques shall be account payee cheque to be encashed in Saving A/c No. 39127490185, State Bank of India, K.G. Marg, New Delhi in the name of Ms. Kangan Singh under guardian Mr. Ashok Khanna, next friend. The above said four cheques has been handed over to the First Party today i.e. 03.03.2020 and the First Party acknowledges the receipt of the same. The copies of the said cheques is annexed herewith as Annexure-A.

4. Any default in encashment of aforesaid post-dated cheques shall amount to violation of present settlement agreement and the consequences shall follow as per law.

5. The First Party further declares and undertakes that upon the due fulfillment of the terms and conditions set out in the present Settlement Agreement, the first party shall be left with no right, title or interest in the properties bearing No. 243, 245, 246, 247, 248, 249, 250 and 251, Kandla Kasan, Fatehpuri, Delhi-110006 and shall be left without any claim whatsoever in respect of the said properties in future, and that it shall further not file or cause to be filed any case(s) complaint(s) etc. in respect of the said properties or any part thereof.

6. That the First Party assures that it has not created any third party interest and/or charge over any portion of the said properties till date. The First Party further undertakes not to create any third party

interest in respect of the said properties or any part thereof in future. The parties further undertake and declare that they shall not do or cause to be done any act so as to compromise, prejudice or otherwise have any negative effect in their rights and those of the other party, in the said properties.

7. That it is further agreed between the Second Party and the Third Party that the instant settlement is meant to mutually benefit them and give effect to the settlement dated 06.10.2016 and the judgment and decree dated 21.12.2016 in CS (OS) No. 1415/2012 and shall cease to have effect in the event of default on the part of the Third Party in remitting balance payment of Rs. 1,65,00,000/- (Rupees One Crore Sixty Five Lacs) to be completed on or before 05.02.2021 as mentioned below. The said settlement arrived at between the Second Party and

Third Party in CS (OS) No. 1415/2012 shall remain valid and binding upon them for all purposes except change of date of payment in view of the present Settlement Agreement. The Third Party undertakes to pay the said amount of Rs. 1,65,00,000/- (Rupees One Crore Sixty Five Lacs) to the Second Party in the following manner:

(i) The Third Party (collectively except Anjani Kumar, S.No.4) shall make payment of an amount of Rs. 30,00,000/- (Rupees Thirty Lacs only) towards first installment by way of three cheques vide (i) Cheque No. 000407 dated 05.03.2020 drawn on FIDFC Bank, Chandi Chowk, Delhi for a sum of Rs. 10,00,000/- (Rupees Ten Lakhs Only) by Sh. Jinender Kumar Jain in favour of Kundan Lai Gugnani; (ii) Cheque No. 000003 dated 05.03.2020 drawn on FIDFC Bank, Chawri Bazar, Delhi for a sum of Rs. 10,00,000/- (Rupees Ten Lakhs Only) by Sh. Umesh Sharma in favour of Kundan Lai Gugnani; (iii) Cheque No. 015238 dated 05.03.2020 drawn on ICICI Bank, Nai Sarak, Delhi for a sum of Rs. 10,00,000/- (Rupees Ten Lakhs Only) by Sh. Sanjeev Jain in favour of Kundan Lai Gugnani;

The copy of the above said three cheques is enclosed herewith as Annexure-B.

(ii) *The remaining payment of Rs. 1,35,00,000/- (Rupees One Crore Thirty Five Lacs only) shall be made by Mr. Sanjeev Jain (at S. No.1, Third Party). The details of the post dated cheques which has been handed over today i.e. 03.03.2020 to Mr. Kundan Lai Gugnani, Second Party are as under;*

*Cheque No. 015239 for a sum of Rs. 20,00,000/- dated 30-04-2020;
Cheque No. 015240 for a sum of Rs. 15,00,000/- dated 15-05-2020;
Cheque No. 015241 for a sum of Rs. 10,00,000/- dated 30-06-2020;
Cheque No. 015242 for a sum of Rs. 10,00,000/- dated 30-07-2020;
Cheque No. 015243 for a sum of Rs. 10,00,000/- dated 30-08-2020;
Cheque No. 015244 for a sum of Rs. 10,00,000/- dated 30-09-2020;
Cheque No. 015245 for a sum of Rs. 10,00,000/- dated 30-10-2020;
Cheque No. 015247 for a sum of Rs. 10,00,000/- dated 30-11-2020;
Cheque No. 015248 for a sum of Rs. 15,00,000/- dated 30-12-2020;
Cheque No. 015251 for a sum of Rs. 25,00,000/- dated 05.02.2021;*

All the above said cheques are drawn on ICICI Bank, Nai Sarak, Delhi. The copy of the said cheques are annexed herewith as Annexure-C (Colly).

The Second Party, upon receiving the aforesaid PDCs under this instant settlement, has hereby returned the balance PDCs handed over by the Third party earlier in the Settlement Agreement dated 6.10.2016. That it is agreed between the Second Party and Third Party that settlement agreement dated 06.10.2016 and the judgment and decree dated 21.12.2016 as stated above, shall be accepted to be enforceable by all the parties after execution of the present settlement in the present matter as also stated above. It is further agreed between the Second Party and the Third Party that the instant settlement is meant to mutually benefit them and give effect to the settlement dated 06.10.2016 and the judgment and decree dated 21.12.2016, and shall cease to have effect in the event of default on the part of the Third Party in remitting payment of amount of Rs. 1,65,00,000/- (Rupees One Crore Sixty Five Lacs) to be completed on or before 05.02.2021 in the above referred manner, and the Second Party shall be within its rights to seek damages and or any other legal remedies including and

not limited to Clause 13 of the Settlement Agreement dated 06.10.2016 in CS (OS) No. 1415/2012 between Second Party and Third Party which is reproduced as under:

"The parties agree and undertake to this Hon'ble Court to be bound by the terms and conditions of this Settlement Agreement, failing which the defaulting party shall be liable to pay liquidated damages to the extent of Rs. 1 Crore to the aggrieved party and shall give an undertaking to the Hon'ble Court that the parties agree to abide by the terms and conditions of the present Settlement Agreement failing which the party will be in violation of the court order and liable for contempt of court."

8. The First Party undertakes to furnish the affidavit of Mrs. Rajni Singh (mother of Ms. Kangan Singh) and Mr. Subodh Singh (younger brother of Ms. Kangan Singh) acknowledging and confirming therein the contents of the present Settlement Agreement for all time to come in future. The First Party shall also indemnify on behalf of Ms. Kangan Singh in case of loss caused due to impersonation and misrepresentation arising out of and limited to the suit property and amounting to the agreed settlement amount in view of the present Settlement Agreement in future.

9. The Parties shall pray before this Hon'ble Court that the present suit bearing CS (OS) No. 364/2017 may be decreed/disposed off in terms of the present Settlement Agreement."

2. In terms of the settlement learned counsel for the plaintiff submits that all the post-dated cheques have since been encashed and the plaintiff has no objection if the suit is decreed in terms of the settlement.
3. Consequently, the suit is decreed in terms of the settlement arrived at between the parties.
4. Decree sheet will incorporate the terms of settlement.

5. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JULY 08, 2020
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