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

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Pronounced on :19.05.2020

+ **CS(OS)425/2017**

V.K.R. CONSTRUCTIONS PRIVATE LIMITED ... Plaintiff
Through **Mr.Ram Singh Chauhan,**
Mr.Amit Singh Chauhan and
Mr.Hemant Chauhan, Advs.

versus
SHRI COLONIZERS & DEVELOPERS PVT. LTD. & ANR..Defendants
Through **Mr.Raman Gandhi and**
Ms.Harsha Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (JUDGMENT)

IA No.12606/2017 in CS(OS)425/2017

1. This application is filed by the defendants under Order 37 Rule 3(5) of the Code of Civil Procedure (hereinafter referred to as "CPC") seeking leave to defend.

2. The present suit/plaint is filed by the plaintiff for recovery of Rs.2,80,00,000/- alongwith interest. The case of the plaintiff is that in April 2013 defendant No.2 approached the plaintiff on behalf of defendant No.1 and offered to sell the hotel site No.1 at international business Bay-2 in IBB-2, Sushant Golf City, Sultanpur Road, Lucknow. The plaintiff agreed to purchase the said property for a total sale consideration for Rs.6,86,40,000/-. In confirmation of the said Agreement for Sale, plaintiff paid defendant No.1 an amount of Rs.1 crore on 26.04.2013. Subsequently, an Agreement to Sell was

executed between the plaintiff and defendants on 14.2.2014 wherein receipt of the advance/earnest money of Rs.1 crore was acknowledged. The balance sale consideration of Rs.5,86,40,000/- was to be paid on or before 30.6.2014 at the time of execution of the Sale Deed.

3. Later on, the defendants also offered residential FSI area in the Group Housing at Sushant Golf City, Sultanpur Road, Lucknow at a discounted price. Defendant No.2 on behalf of defendant No.1 offered to sell the residential FSI area of 1 lac sq.ft. at the rate 400 per sq.ft.in the Group Housing at Sushant Golf City, Sultanpur Road, Lucknow. The defendant agreed to purchase the said residential property for a total sale consideration of Rs.3,93,60,000/- on 03.03.2014.

4. Ultimately, on 9.1.2015 the plaintiff paid a total payment of Rs.2,80,00,000/- and Vandana Farms and Resorts Private Limited, a sister concern of the plaintiff paid Rs.8,00,00,000/- to the defendant for the aforementioned transaction. Hence, the entire sale consideration was paid towards the hotel property and the residential property.

5. Thereafter the plaintiff and defendants and the sister concern of the plaintiff Vandana Farms and Resorts Private Limited executed an MOU dated 19.12.2016 whereby the defendants agreed to repay the entire amount with interest within a period of six months alongwith interest @ 18% compounded quarterly. Hence, as there has been a breach of the said MOU the present suit is filed claiming a sum of Rs.2,80,00,000/- alongwith 18% interest compounded quarterly being a total of Rs.5,48,64,394/-.

6. I may note that the sister concern of the plaintiff for the same series of transactions had filed a suit being CS(OS)424/2017 titled “Vandana Farms and Resorts Private Limited vs. Shri Colonizers and Developers Private Limited”. That suit is also filed under Order 37 CPC. In that suit the application of the

defendant being IA No.12605/2017 seeking leave to defend has been dismissed by this court by a separate judgment written today. The facts of this case and the defences raised by the defendant are virtually akin to CS(OS)424/2017 titled “Vandana Farms and Resorts Private Limited vs. Shri Colonizers and Developers Private Limited”. For the same reasons as stated in the said judgment, the present application seeking leave to defend is dismissed.

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7. As the application for leave to defend being IA No.12606/2017 has been dismissed the present suit is decreed. A decree is passed in favour of the plaintiff and against the defendants for a sum of Rs.5,48,64,394/-. Plaintiff shall also be entitled to Simple Interest @ 12% per annum from the date of filing of the suit till the date of decree. Plaintiff shall also be entitled to future interest @ 12% per simple interest from the date of decree till recovery. Plaintiff shall also be entitled to costs.

8. Suit stands disposed of. All pending applications, if any, also stand disposed of.

**JAYANT NATH
(JUDGE)**

May 19, 2020

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