

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**FIRST APPEAL NO. 403 OF 2018**

- Krishna Kumar Agrawal, S/o Shri Pawan Kumar Agrawal, aged 36 years, R/o Naya Sarkanda, Bilaspur, Tahsil and District Bilaspur (C.G.)

... Appellant**versus**

1. Shivam Real Infra Developers Pvt. Ltd., through Director Sandeep Pandey, S/o Late Vinod Kumar Pandey, R/o L-4, Vinoba Nagar, Bilaspur, Tahsil and District Bilaspur (C.G.)
2. The State of Chhattisgarh, through Collector, Bilaspur, District Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. Shishir Dixit, Advocate.
For Respondent No.1	:	Mr. K.P.S. Gandhi, Advocate.
For Respondent No.2	:	Mr. Rajendra Tripathi, P.L.

Hon'ble Shri Justice P. Sam Koshy**Hon'ble Smt. Justice Rajani Dubey****Order on Board****[09/11/2021]****Per, P. Sam Koshy, J.**

1. Matter is taken up for hearing on I.A. No.3 which is an Application filed by the disputing parties i.e. the Appellant-Defendant and Respondent No.1-Plaintiff, in terms of Order XXIII Rule 3 of the Code of Civil Procedure.
2. Shri Krishna Kumar Agrawal, the Appellant himself is present in person along with his Counsel Shri Shishir Dixit, Advocate.
3. On behalf of Respondent No.1-Company, the two Partners Smt. Kunti Pandey and Shri Sandeep Pandey are also present along with their Counsel Shri K.P.S. Gandhi, Advocate.
4. The present First Appeal is a Defendant's appeal assailing the Judgment and Decree dated 5.4.2018 passed by the 6th Additional Sessions Judge, Bilaspur in Civil Suit No. (A)/413A/2014.
5. Vide the said Judgment and Decree, the suit for specific performance of contract entered into between the parties was ordered to be enforced.

6. The present Appeal was admitted as early as on 13.8.2018 and notices were issued to the other side. Pending the Appeal before this Court, the present Application under Order XXIII Rule 3 of the Code of Civil Procedure has been filed on behalf of the disputing parties i.e. the Appellant and the Respondent No.1.

7. Both learned Counsel for Appellant and learned Counsel for Respondent No.1 submit that pending the Appeal before this Court the parties have entered into an out of court settlement and the terms and conditions of the settlement has been reflected in the Deed of Settlement dated 2.4.2021 enclosed along with the aforesaid Application (I.A. No.3).

8. In terms of the settlement, the Appellant has agreed to pay an amount of Rs.40 Lakh to Respondent No.1 and which he has already paid by way of two Demand Drafts, one for Rs.30 Lakh through Demand Draft No.500103, dated 10.3.2021 and another for Rs.10 Lakh through Demand Draft No.500106, dated 19.3.2021. On receipt of the said amount, the Respondent-Plaintiff has filed an Affidavit in this regard and has also given an undertaking that they shall henceforth not make any claim for enforcement of the Agreement that was entered into with the Appellant-Defendant on 29.6.2010.

9. Both the parties i.e. the Appellant as also the two of the Directors of Respondent No.1-Company, present in the Court, submit that in the light of the settlement arrived at between the parties and the consideration that the Appellant has paid to Respondent No.1, they do not want to pursue the present First Appeal any further.

10. Let the Appellant as also the two of the Directors of Respondent No.1-Company appear before the Registrar (Judicial) during the course of the day itself and record their respective statement in respect of the settlement arrived at which may form part of the record of the Appeal.

11. Accordingly, in terms of the Deed of Settlement dated 2.4.2021, the impugned Judgment and Decree dated 5.4.2018 passed in Civil Suit No. (A)/413A/2014 stands set aside/quashed.

12. Let a fresh Decree be drawn by the Registry in terms of the Settlement arrived at between the parties. The Deed of Settlement entered into between the parties on 2.4.2021 be also made a part of the Decree.

13. First Appeal accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

Sd/-
(Rajani Dubey)
JUDGE