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

Date of decision: 18.01.2021

+ CRL.M.C. 613/2020, CRL.M.A. 2527/2020 &
CRL.M.A. 4575/2020

SH. HARPAL SINGH CHAWLA Petitioner
Through None

versus

STATE & ANR. Respondents
Through Mr. Amit Chadha, APP for State
Mr. Rama Shankar, Mr. Mohit
Aggarwal and Mr. Akshar Aggarwal,
Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of the order dated 17.01.2020 passed by learned District & Sessions Judge, Patiala House Court, New Delhi and quashing/setting aside of order dated 21.11.2019 passed by learned MM, South West District, Patiala House Court in CC No.11526/2019.
2. Learned counsel for respondent No.2/complainant has informed this Court that the matter has been settled before the Delhi High Court Mediation and Conciliation Centre on 14.01.2021 which is reproduced as under:

**DELHI HIGH COURT MEDIATION AND CONCILIATION
CENTRE
DELHI HIGH COURT, SHER SHAH ROAD, NEW DELHI**

Date: 14.01.2021

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is entered into on 14.01.2021

BETWEEN

MR. ANIL MADHOK (PAN NO. ADFPM7163G AADHAR NO. 8104 7607 9815) S/O SH. INDERJIT MADHOK R/O C-8, SECTOR 20, NOIDA, UTTAR PRADESH (HEREINAFTER REFERRED TO AS “FIRST PARTY”, WHICH EXPRESSION SHALL, UNLESS REPUGNANT TO THE CONTEXT OR MEANING THEREOF, BE DEEMED TO MEAN AND INCLUDE HIS LEGAL HEIRS, REPRESENTATIVES, EXECUTORS, SUCCESSORS AND PERMITTED ASSIGNS, ETC.), BEING THE PARTY OF THE ONE PART;

AND

M/S SPAZE TOWERS PRIVATE LIMITED, A COMPANY EXISTING UNDER THE PROVISIONS OF COMPANIES ACT, 2013 AND HAVING ITS REGISTERED OFFICE AT UG-39, UPPER GROUND FLOOR, SOMDATT CHAMBER-II, 9, BHIKAJI CAMA PLACE, NEW DELHI – 110066 AND CORPORATE OFFICE AT „SPAZEDGE“ SECTOR 47, GURUGRAM-SOHNA ROAD, GURUGRAM, HARYANA THROUGH ITS AUTHORISED REPRESENTATIVE MR. HARPAL SINGH CHAWLA, AUTHORISED VIDE BOARD RESOLUTION DATED 11.01.2021. COPY OF THE SAME IS ANNEXED HERewith AS ANNEXURE – A. (HEREINAFTER REFERRED TO AS THE “SECOND PARTY”, WHICH EXPRESSION SHALL, UNLESS IT BE REPUGNANT TO THE CONTEXT OR MEANING THEREOF, BE DEEMED TO INCLUDE ITS REPRESENTATIVES, EXECUTORS, SUCCESSORS AND PERMITTED ASSIGNS, ETC.), BEING THE PARTY OF THE SECOND PART.

*The „First Party“ and the „Second Party“ are jointly referred to as the **Parties**” and individually as the **“Party”**.*

- 1. That the First Party purchased a commercial Unit no. GF-10, admeasuring 966 sq. ft. (hereinafter referred to as "Unit") located on the ground floor of the Project "Spaze Arrow" launched by the Second Party in Sector -78, Gurugram, Haryana and an Allotment Letter dt. 07.12.2012 was issued by the Second Party. Further, a Builder Buyer Agreement was executed between the Parties on 19.03.2015.*
- 2. That an amount of Rs. 1,13,19,336/- was paid by the First Party to the Second Party in instalments till May"2016 qua the aforesaid Unit as towards its sale consideration. Further, the First Party has availed a loan facility from ICICI Bank Ltd. of Rs.31,63,907/-(Rupees Thirty One Lac Sixty Three Thousand Nine Hundred Seven) for paying a partial amount of money qua the aforesaid Unit.*
- 3. That some disputes arose between the Parties related to the aforesaid Unit, due to which a Legal Notice was served by the First Party through its counsel upon the Second Party seeking refund of amount paid by the First Party. Receiving no response to the Legal Notice, the First Party lodged a complaint at P.S. R.K. Puram against the Second Party and its Directors, alleging the cheating and criminal breach of trust. Upon no action by the Police and higher authorities, in 2019, the First Party had approached the Court of Chief Metropolitan Magistrate, New Delhi District, New Delhi under section 156(3) of CrPC in C.C. No. 11526/2019 and sought penal action against the Second Party alleging the offence of cheating, criminal breach of trust, etc. committed against the First Party, Consequently, the Hon"ble Court ordered for registration of FIR against the Second Party and its Directors vide Order dt. 21.11.2019.*
- 4. That furthermore, the aggrieved Second Party approached the Hon"ble Court of District & Sessions Judge, New Delhi District, New Delhi challenging the Order dt. 21.11.2019 thereby in Criminal Revision Petition titled as Harpal Singh Chawla v. State, whereby the Hon"ble Court of ASJ, New Delhi declined to grant interim relief to the Second Party vide Order dt. 17.01.2020. The said Revision Petition is pending for adjudication.*
- 5. That further the Second Party approached the Hon"ble High Court of Delhi by filing Crl. Misc. (Main) No. 613 of 2020 seeking quashing of Order dt. 21.11.2019 and Order dt. 17.01.2020 of the Hon"ble Court of*

ASJ-02, New Delhi.

6. That the Hon''ble High Court of Delhi had in the aforesaid Petition granted an interim stay on the operation of the aforesaid Orders till the next date of hearing i.e. 18.01.2021.

7. The said matter being CRL.M.C. 613/2020 was referred to Samadhan (Delhi High Court Mediation and Conciliation Centre) vide order dated 22.10.2020 passed by Hon''ble Mr. Justice Suresh Kumar Kait.

8. The parties have agreed that Mr. Sunil Mittal, Sr. Advocate and Ms. Ruchika Mittal, Advocate were act as their Mediator and Co-Mediator respectively in the mediation proceedings.

9. Mediation sessions were held amongst the Parties and their respective counsel on 04.11.2020, 12.11.2020, 23.11.2020, 03.12.2020 & 14.12.2020 through videoconferencing. During mediation proceedings, the First Party was accompanied by its counsel named Mr. Mohit Aggarwal, Advocate (Enrl. No. UP-1095/2015) & Mr. Abhishek Sharma, Advocate (Enrl. No. D/92/1995) (Email Id lawhawks68@gmail.com), and the Second Party was accompanied by its counsel Mr. Shadman Ahmed Siddiqui, Advocate (Enrl. No. D-3912/2017) (Email Id adv.shadman@gmail.com) & Mr. Lokesh Bhola, Advocate (Enrl. No. D/709/2005) (Email Id lokeshbhola@gmail.com). The Parties, with the assistance of the Mediator and proactive participation of their counsel arrived at an amicable solution by way of the instant Settlement Agreement, resolving the abovementioned dispute and difference and further ending it once for all.

The following settlement has been arrived at between the Parties hereto:

1. That, an understanding/settlement has been arrived between the Parties, in acknowledgement of amicable resolution/settlement of all concerns, issues, doubts, queries, claims, grievances etc., whatsoever, of the First Party to its complete satisfaction and accordingly, now the First Party does not have any concerns, issues, doubts, queries, claims, grievances, whatsoever, against the Second Party and/or their respective Directors, representatives, etc.

2. That, the Parties mutually agree that with effect from the date of this Agreement, the allotment of the said Unit stands cancelled and revoked from the name of the First Party. The First Party with its free will and

without any pressure has accepted, without any objection and/or demur, the cancellation of the Unit. The First Party shall surrender all original documents with respect to the Unit with the Second Party.

3. That, the Parties mutually agree that with effect from the date of this Agreement the Second Party will pay a total sum of Rs. 1,13,19,336/- (One Crore Thirteen Lakhs, Nineteen Thousand, Three Hundred and Thirty Six only) (“Agreed Amount”) to the First Party as per the terms & conditions of the Agreement, as a full and final settlement of the claim of the First Party against the Second Party.

4. That, the Agreed Amount of Rs. 1,13,19,336/- (One Crore Thirteen Lakhs, Nineteen Thousand, Three Hundred and Thirty Six only) shall be paid by the Second Party to the First Party by way of post-dated cheques in the following manner:

Sr. No.	Cheque Drawn in favour of	Bank Name	Cheque No.	Amount	Cheque date
1	Anil Madhok	Axis Bank	636006	Rs.2,03,336/-	13.01.2021
2	Anil Madhok	Axis Bank	635998	Rs.15,88,000/-	26.03.2021
3	Anil Madhok	Axis Bank	635999	Rs.15,88,000/-	26.04.2021
4	Anil Madhok	Axis Bank	636000	Rs.15,88,000/-	26.05.2021
5	Anil Madhok	Axis Bank	636001	Rs.15,88,000/-	26.06.2021
6	Anil Madhok	Axis Bank	636002	Rs.15,88,000/-	26.07.2021
7	Anil Madhok	Axis Bank	636003	Rs.15,88,000/-	26.08.2021
8	Anil Madhok	Axis Bank	636004	Rs.15,88,000/-	26.09.2021

5. That upon the receipt of the first three aforesaid instalments i.e. on or before 26.04.2021, as mentioned in the Clause 4 of this Agreement, the First Party undertakes to provide No Objection Receipt/Receipt of Payment along with the loan statement to the Second Party, after clearing the loan with its Banker over the aforesaid Unit, and to return the original documents of the aforesaid Unit to the Second Party, on or before 01.05.2021.

6. That the Second Party has assured the First Party that the

abovementioned cheques will be honored by their Banker without any demur/ objection. Further, the Second Party assures the First Party that no request for encashment of cheque on the date later than as mentioned herein above shall be made by the Second Party to the First Party.

7. That the First readily agrees and undertakes that it shall have no objection and thereby shall tender consent and extend full cooperation in disposing of Crl. Misc. (Main) No.613 of 2020 titled as Harpal Singh Chawla v. State pending before the Hon"ble Delhi Court, reserving its rights to revive the aforesaid litigation upon the non-receipt of the aforesaid instalments.

8. That, the First Party agrees that from the date of this Agreement it has no right, title or interest whatsoever on the said Unit and that there is no encumbrance, except as specifically agreed in Clause 5 above, on the said Unit by way of any loan, charge, agreement, lis-pendens, decree, attachment, etc. and any loan/ charge/ agreement whatever created by it has been duly discharged/ satisfied/ cancelled for which it undertakes to indemnify and hold harmless the Second Party.

9. That, the First Party shall have no objection if the Second Party deals with the said Unit in any manner it may feel appropriate.

10. That, the First Party acknowledges that all its concerns, issues, doubts, queries, claims, grievances etc. with respect to the Second Party, Project, etc., whatsoever, has been settled and that the First Party, with its free will and without any pressure or rapacity, agrees not (i) to institute any suit, or/and file any complaint(s)/application(s), etc., whatsoever, with any court, or/and authority(ies) including Police/ RERA/ EOW, NCDRC, NCLT etc., either against the Second Party or against the Directors, officers, employees, etc. of the Second Party or any of them. The First Party shall also forthwith withdraw all its complaint dated 07.02.2020 lodged against both S.H.O. and I.O. of Police Station R.K. Puram, New Delhi with Vigilance Deptt. and/or before any other authority or any such similar applications, reserving its rights to revive the aforesaid litigation upon the non-receipt of the aforesaid instalments.

11. That, the First Party undertakes not to invoke the Second Party including its Directors, nominees, employees, etc. in any litigation/ dispute whatsoever with regard to the said Project, Unit, possession, delay compensation in handing over of the Unit etc. at any time in future

and/or otherwise, and shall forthwith withdraw all its complaints including litigation, if any, sub-judice in any court of law and/or pending before any Authority including RERA, Police, NCDRC, NCLT etc.

12. The First Party undertakes and confirms to sign, execute, submit necessary Agreements/documents/undertakings/letters etc. as may be required by the Second Party in its standard formats and further do/perform all other necessary acts, as may be required by the Second Party for the purpose of delivering possession of the Unit and registration of Sale/Conveyance Agreement with respect to the Unit.

CONSEQUENCES OF BREACH OF SETTLEMENT:

1. That the Parties have mutually agreed that in case of breach of this Agreement without any non-justifiable reason, then the following consequences shall follow:

i. Both the Parties shall be entitled to initiate contempt proceedings against the other, for the deliberate and willful breach of the Settlement Agreement committed by any of the Parties.

ii. The First Party shall be entitled to initiate proceedings against the Second Party under Section 138 of the Negotiable Instruments Act, for the dishonor of cheques.

iii. The First Party will be at liberty to revive the proceedings withdrawn by the First Party against the Second Party in case of dishonor of cheques, provided that the Second Party shall be provided an opportunity of reasonable time of seven days to make the payments against the dishonor of cheques.

iv. In case of default of the aforesaid instalments, even after grace period of seven days, by the Second Party, the amount having already been paid by the Second Party shall stand forfeited.

2. That the remedies mentioned hereinabove are not exhaustive and it shall include any other remedy as well which is permitted by the Law in force.

CONSENT:

1. That, the First Party hereby affirms and accepts that the aforesaid understanding arrived at between the Parties is toward mutual settlement of all disputes and has been arrived at with its free will and consent and without any force, compulsion or undue influence of any nature,

whatsoever and accordingly, the First Party, immediately, unequivocally and forever releases/discharges the Second Party including its directors, representatives, etc. of all its issues, grievances, claims, demands, applications, complaints, petitions etc., whatsoever, instituted/filed by it against the Second Party.

2. The Parties represents and warrants that, they intend to be legally bound by this Agreement, that the execution of this Agreement is free and voluntary, that no inducements, threats, presentations, or influences of any kind were made or exerted by or on behalf of any Party (in any manner or kind whatsoever).

LEGAL AND BINDING AGREEMENT:

This Agreement is legal and binding between the Parties as stated above. The Parties each represent that they have the authority to enter into this Agreement.

ENTIRE AGREEMENT:

The Parties acknowledge and agree that this Agreement represents the entire

Agreement between the Parties. In the event that the Parties desire to change, add, or otherwise modify any terms, they shall do so in writing to be signed by both parties.

CONSTRUCTION OF AGREEMENT:

The language of this Agreement shall not be construed for or against either Party. The Parties acknowledge that they have both participated in the drafting of this Agreement, and the language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and the Parties further agree that the rule of construction of contracts resolving ambiguities against the drafting Party shall be inapplicable to this Agreement. The headings used herein are for reference only and shall not affect the construction or interpretation of the Agreement.

RESIDUARY CLAUSES:

1. That, the First Party agrees and undertake to hold harmless, indemnify and keep indemnified the Second Party and/or its affiliates/subsidiaries including its Directors, employees, etc. of and from any and all liabilities, actions, causes of action, claims, debts, demands, damages, and

liabilities etc. and compensation of every nature, kind and character, whatsoever, which may be suffered/incurred by them, on account of any action, complaint, suit etc., by whatever name called, instituted/filed/initiated by the First Party and/or anyone on its behalf. The First Party further affirms and undertakes to appear before any court/ authority(ies) and sign necessary documents/paper/undertakings, and do/perform all necessary tasks/Agreements, etc. to support/save/defend/hold the Second Party including its Directors, representatives, employees, etc. and keep them saved and harmless from and against any action/enquiry etc., which is based on any plaint/report/complaint etc. filed/instituted by the First Party and/or anyone on its behalf.

2. The Parties agree to keep the contents of this Agreement confidential and not divulge information about this Agreement to any third party except to the extent required for the quashing proceedings in any court and/or before any authority.

3. This Agreement contains the sole and entire understanding/agreement of the Parties with respect to the entire subject matter hereof, and all prior discussions, negotiations, commitments, and understandings, or Agreements/Agreements related thereto stands dissolved. Each of the Parties hereto acknowledges that no representation or promise not expressly set forth in this Agreement has been made by any other Party hereto, or by any of their agents, servants, employees, representatives, attorneys or accountants to the other Party.

4. This Agreement shall bind and inure to the benefit of the respective successors, assigns, legatees, and personal representatives of the Parties.

5. The Parties acknowledge, confirm and declare that, the recitals detailed hereinabove shall be considered to be an integral part of this Agreement, legally binding on all the Parties.

6. The Parties agree and understand that, this Agreement shall be considered to be a valid request/application to any/all concerned authorities for withdrawal of all complaints/applications/reports etc., by whatever name called, made/filed by First Party against the Second Party, its maintenance agency including their respective directors, employees, etc.

7. This Agreement shall be governed by the laws of India and courts at

Delhi shall have jurisdiction to entertain all disputes arising out of or touching upon any of the provisions of this Agreement.

8. That the contents of the above settlement agreement have been read over to all the parties in vernacular and all the parties have agreed to and understood the same.

3. Keeping in view the settlement arrived at between the parties, I hereby set aside the afore-mentioned orders dated 17.01.2020 and 21.11.2019.

4. It is made clear that if the petitioner/accused does not comply with the settlement dated 14.01.2021 as arrived between the parties, respondent No.2 shall have right to revive the afore-mentioned orders dated **17.01.2020 and 21.11.2019.**

5. In view of above, the present petition is disposed of.

6. Pending applications also stand disposed of.

7. The order be uploaded on the website of this Court forthwith.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 18, 2021/ab