

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 154 OF 2014
IN
ARBITRATION PETITION NO. 224 OF 2013

Indu Rakesh Jain & Anr ...Appellants
Versus
Rattan Bhushan Jain & Ors ...Respondents

Mr Nitin Thakkar, Senior Advocate, with AS Pal, Mustafa
Kachwala & Sanjana Das, i/b Mehta & Padamsey, for the
Appellants.
Mr Raj Patel, with Niket Jani, i/b Vigil Juris, for the Respondents.

CORAM G.S. Patel &
V. G. Bisht, JJ.
DATED: 28th June 2022

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1. Arbitration comes in various forms and sizes. In a commercial city like Mumbai, it is certainly not unknown for families possessed of sufficient means and finding themselves inevitably involved in some property dispute or the other to agree to refer their disputes to the arbitration of a person commonly known and accepted by both sides. Often, such a person arbitrating these disputes is not a legal professional equipped with a knowledge of the techniques and requirements of a formal legal adjudication. This does not mean that

the resultant arbitration is in any sense informal or not binding or that it falls outside the realm of the Arbitration Act. What tends to happen is that when an Award is made, the losing party suddenly discovers all kinds of strict legal infirmities and tries to capitalise on these. This is exactly what has happened in the present case.

2. The Appeal is under Section 37 of the Arbitration and Conciliation Act 1996 (“**the Arbitration Act**”). It is directed against an order of 21st January 2014 (NM Jamdar J) dismissing the Appellants’ Section 34 Petition challenging an Award dated 31st October 2012 by one Rajnish Jain, the sole Arbitrator.

3. Before we examine the merits of the case, we believe we would be well advised to bear firmly in mind the constricted parameters of a challenge under Section 34 and, resultantly the limits of an Appeal under Section 37. It is now too firmly settled to admit of the slightest dispute that a Section 34 Petition is not in the nature of a regular First Appeal. The guiding principles after the amendments to the Arbitration and Conciliation Act 1996 are perhaps best set out in *Ssangyong Engineering & Construction Co Ltd v National Highways Authority of India*.¹ There was a marked departure in the law in certain regards. The *Ssangyong Engineering* Court reconciled the legal position, and, in particular, the jurisprudential position as it stood in *Associate Builders v Delhi Development Authority*² as also some of the principles previously

1 (2019) 15 SCC 131.

2 (2015) 3 SCC 49.

enunciated in *ONGC Ltd v Western Geco International Ltd*.³ *Sangyong Engineering* analyses these various statutory and jurisprudential paradigm shifts and then sets out the contemporary legal position. In *Union of India v Recon*,⁴ a decision by one of us (GS Patel J), this court elicited the governing principles. The relevant portion reads thus:

17.4 This yields the following result:

- (i) A lack of a '*judicial approach*', being the *Western Geco* expansion, is not available per se as a ground of challenge.
- (ii) A violation of the principles of natural justice is a ground for challenge as one under Section 18 read with Section 34(2)(a)(iii) — that is to say, not under the 'fundamental policy' head nor the 'patent illegality' head, but distinctly under this sub-section.⁵
- (iii) A lack of reasons is a patent illegality under Section 34(2-A).
- (iv) In *interpreting the contract*, the arbitral view must be *fair-minded* and *reasonable*. If the view is one that is *not even possible*, or if the arbitrator wanders beyond the contract, that would amount to a 'patent illegality'.
- (v) '*Perversity*' as understood in *Associate Builders*, is now dishoused from '*fundamental*'

³ (2004) 9 SCC 263.

⁴ 2020 SCC OnLine Bom 2278 : (2020) 6 Mah LJ 509 : (2020) 6 AIR Bom R 613 : (2021) 1 Bom CR 167

⁵ 34(2)(a)(iii): the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings **or was otherwise unable to present his case.**

policy' (where *Western Geco* put it), and now has a home under '*patent illegality*'. This includes:

- (A) a finding based on no evidence at all;
- (B) an award that ignores vital evidence;
and
- (C) a finding based on documents taken behind the back of the parties.

I believe this is not an exhaustive listing.

Combining (iv) and (v) above, therefore, while the explicit recognition or adoption of the *Wednesbury* unreasonableness standard (introduced in *Western Geco*) is probably done away with, there is even yet a requirement of reasonableness and plausibility in matters of contractual interpretation. If the *interpretation of the contract* is utterly unreasonable and totally implausible — the view taken is not even possible — a challenge lies. Therefore: an award that was impossible either in its *making* (by ignoring vital evidence, or being based on no evidence, etc) or in its *result* (returning a finding that is not even possible), then a challenge on the ground of 'perversity' lies under Section 34(2-A) as a dimension of 'patent illegality'.

4. Consequently, these are the principles we will need to bear in mind while assessing the impugned order. Very broadly stated, there can be no reappreciation of evidence. Either perversity or patent illegality must be demonstrated. An incorrect application of law is not enough. The Arbitral Tribunal is the sole Judge of the evidence and of its sufficiency. It may be possible to argue that vital and germane evidence was ignored. But this must be clearly shown. It

can also legitimately be canvassed that the Arbitrator travelled outside the contract.

5. But that, as it happens, is not the Appellants' case here. For the two Appellants before us claim that there was no contract at all and there was no arbitration agreement.

6. It is this that was canvassed before the learned Single Judge and we will proceed first to analyse this short order. At least some facts are not in dispute. There were four brothers, RB Jain, JB Jain, PB Jain and one SP Jain, since deceased. The surviving three Jain brothers made a claim against the daughters of JB Jain. The Jain family apparently owned several properties including one at survey No. 82 at Versova, Andheri. By all accounts this is a substantial property of 5136.40 sq mtrs. Disputes arose between the parties and this led to a suit being filed in a Civil Court in Amritsar. There, the parties were categorised into Groups A and B and the suit was compromised. The Group A parties were entitled to a certain portion of the Versova property and the Group B parties were entitled to the other portion. This property was to be developed. Disputes arose between the parties regarding the development and specifically in regard to the payment to be made to the parties *inter se* and to the developer. At this point, the parties agreed upon the appointment of Rajnish Jain, also the Respondents say, by consent. This is now the canvas of the case of the Respondents represented by Mr Patel before us. Their case is that a sealed envelope containing documents was sent to Mr Rajnish Jain. The packet contained a Memorandum of Understanding-cum-Private Partition

(“MoU”) and the date of this said to be 26th December 2008. We have the document before us and we will turn to it shortly. We also have the envelope in question, about which a little more later. The MoU said that the parties were entitled to one floor each in the undivided 2nd, 3rd, 4th and 9th floors and 25% each of a 10th floor penthouse with an attached terrace area. The two sisters, Indu Jain and Seema Jain, in appeal before us, had agreed to retain the entire 10th floor penthouse and terrace and the complete 9th floor. In consideration of this they had agreed to pay out an aggregate amount of Rs. 88.5 lakhs divided thus: 37.85 lakhs to the RB Jain Group, Rs. 17.85 lakhs to the PB Jain Group and Rs. 32.85 lakhs to the Mahesh Kumar and Brothers Group. According to the Respondents, the total payment would be in lieu of the cost of taking undisputed possession of the entire 10th floor penthouse and terrace. It was contended that although this document was ostensibly dated 26th December 2008, it was not actually signed till some time in March 2009 along with the actual development agreement.

7. Before the learned Arbitrator, the Appellants disputed the document. They said their signatures were taken on blank papers. The actual signatures were not disputed but they said that they had not signed any such agreement. For reasons to which we will advert subsequently the learned Arbitrator accepted the case of the Respondents, found that there was an MoU-cum-Partition document, referred to certain emails and held that the main purpose behind the signing of the MoU was to enable the present Appellants to retain the 10th floor penthouse. The learned Arbitrator referred to family commitments in the past and he finally directed the Petitioners to pay the amounts set out in the MoUs. The Arbitrator

also noted that the Petitioners had in fact sold the 9th and 10th floors on 26th April 2010.

8. Before Jamdar J, it was once again contended that there was no MoU at all but only a development agreement. There were certain disputes about inspection but those need not detain us. It was contended then, as it is now, that the claim statement in arbitration annexed a typed but not a signed copy of the MoU. The dispute as to the inspection was refuted by the Respondents and it was reiterated that the signed MoU was sent to the Arbitrator in a cover that had signatures including by the son of one of the two Appellants. The learned Single Judge found that in the Award the Arbitrator noted that he knew the family.

9. In paragraph 7, Jamdar J then proceeded to examine the conduct of the Petitioners. We now reproduce paragraphs 7 and 8 of the impugned order at pages 24 to 26.

“7. The Arbitrator appointed by the parties, a family friend/relative, has stated that he knows all the family members are well and traditions of this family. It is also stated in the award that the commitments given by the family members have been honored in the past and it is expected that it shall be done by the family members in future as well. In this backdrop, the conduct of the Petitioners needs to be examined. The Petitioners have taken a bold stand that no documents have been executed between the parties. The learned counsel for the Respondents has placed on record the original MOU which they have collected from the learned Arbitrator to show to the Court. It appears that on each page, there is a signature of the parties. Even corrections are initialed by the

Petitioners. There is a reply filed by the Respondents placing on record that even a sealed envelope is signed by the son of the Petitioner. The sealed envelope is shown to me. It bears signatures. The learned Arbitrator has found that the MOU, though initially was not signed, was signed subsequently along with the development agreement and the learned Arbitrator has found that the MOU has been referred to in the correspondence between the parties. This finding of the learned Arbitrator is based on evidence and cannot be disturbed. The learned counsel for the Respondents has sought to explain annexing the draft agreement to the claim statement by referring by the affidavit-in-reply that the original document was not available document. He submitted that this fact has been recorded by the learned Arbitrator.

8. Once the factum of MOU was executed is established, no fault can be found with the learned Arbitrator in giving effect to the MOU placed on record. The Petitioners retained two floors including penthouse with terrace which they have sold however, they have refused to pay amounts to the Respondents. It is unfortunate that the Petitioners have chosen even to deny the existence of the MOU which is not in the spirit of the tradition of the family as emphasized by the learned Arbitrator. The learned Arbitrator has rightly stated that in the family matters, not all commitments are to be reduced in writing and can be inferred by the conduct of the parties. In the present case however the commitments have been reduced in writing. The Petitioners have chosen to recklessly deny almost everything. Such conduct of the Petitioners needs to be deprecated. No case is made out for exercise of powers under Section 34 of the Act. The petition is rejected with costs of Rs. 5,000/-.”

10. Before us it is contended by Mr Thakker that the learned Single Judge was entirely in error. There was no such agreement and the conduct of the Arbitration is suspicious, we are told.

11. Mr Patel shows us both the envelope and its contents. The envelope is marked to Mr Rajnish Jain the sole Arbitrator. It mentions an Airway Bill, AWB No. 39901382625. The reverse of the envelope has several signatures made under a tape seal. The envelope has been opened. The agreement in question is on Rs. 100 Stamp Paper. It was issued, and this may be important, on 5th December 2008 in the name of the 2nd Appellant. It has a total of seven pages. The page numbering is in handwriting in the bottom right hand corner. The signatures of the two Appellants appear at the foot of every page. There is a handwritten change at page 4 by which the Appellants agreed to make the payments above to parties II, III and IV within ten days of getting a part Occupation Certificate or within thirty days of the sale of the 9th and 10th floor, whichever is earlier. The words 'after obtaining Occupation Certificate' are stuck out in hand and the other words are written in ball pen. The two Appellants have countersigned this. There is an unfilled blank at page 6. The date of 26th December 2008 is on the first page in handwriting but this portion is not initialled in the margin. Mr Thakker says it makes the document vulnerable. We disagree.

12. There has been too much controversy about this document. Mr Thakkar, learned Senior Counsel for the Appellants accuses the Arbitrator of gross misconduct. He says it is not explained how document came to him. He submits that when the Appellants asked

the learned sole Arbitrator for his record and register, the only response was to say that the Arbitrator had handed these over to one party and nothing further. He maintains that the entire document is a fabricated and got up document. It could not be dated 26th December 2008 because it has a reference to the development agreement of March 2009. There is no reason, Mr Thakkar says, why the statement of claim could not have had a signed copy of this agreement. There are material discrepancies between the Agreement annexed to the statement of claim and the signed document produced through the Arbitrator.

13. Before we proceed further so that there is no ambiguity about this going forward we propose to take the envelope and the document into safe custody of this Court. We clarify that we are not impounding the document but this is only to ensure that there is no such controversy going forward. In addition, we are annexing to this order colour scans of the front and back of the envelope and of every page of the signed MoU that is shown to us. We do this because although the learned Single Judge noted in paragraph 7, extracted above, that he had seen the envelope and seen the document, there is still a grievance sought to be raised about the document itself.

14. On the face of it, we find no infirmity whatsoever in the impugned order. But Mr Thakkar would have it that there are important aspects concerning the vulnerability of the Award that the learned Single Judge did not consider though he should have. We do not think there is substance in this either. A copy of the Award is from page 62. On the first page the learned sole Arbitrator noted

that in September 2011 at the instance of both parties and in presence of their representatives the sealed envelope earlier sent to him was opened. Mr Thakkar seeks to make capital of this by asking how it could then possibly come to pass that the statement of claim filed in 2012 would not have a copy of this. Not much will turn on this because there is nothing whatsoever to indicate that what happened before the learned sole Arbitrator is untrue. Indeed the same argument was made before the learned sole Arbitrator as it was later made before the learned Single Judge and is now before us. On the second page the learned sole Arbitrator noted that the claim was based on precisely this document. He noted the amounts involved and then said that it was signed in March 2009. He noted the case of the present Respondents that the MoU though dated 26th December 2008 was signed in March 2009 simultaneously with the development agreement. The Appellants filed a Reply and Counter Claim. They were represented by their husbands and their counsels.

15. The next few paragraphs of this Award at internal pages 2 and 3 are critical:

“That during the arbitration proceedings when MOU was put to the representative of Indu Jain & Seema Jain group they admitted their signatures on the said documents, however, they claimed that their signatures were obtained on blank documents. They have further mentioned that the DA with the builder is a registered document but there is no mention pertaining payment of amounts to the claimants. Therefore, they are not entitled to pay the claim amount.

The claimant has rebutted the reply in counter claim of the Indu Jain and Seema Jain group as they have produced various emails exchanged between the parties. **They have**

filed the email dated 20.12.2008 sent by Varun Jain son of Naveen & Seema Jain which clearly refers to Two separate agreements, one DA and second family MOU Cum Private partition. Another email dated 06.08.2009 is sent by Sh. R. B. Jain, Sh. P. B. Jain and Sh. Mahesh Jain to Sh. Naveen Jain and CC'ed to brother Sh. J. B. Jain whereby they have said that 9th and 10th floors had associated by various liabilities and agreed by all the parties. In email dated 20.11.2010 sent by J. B. Jain states that the property was sold by them on the basis of what is written in MOU. They said, they were forced to take 9th and 10th floors for the benefit of the family otherwise the MOU would left incomplete. They also rely on other email exchanged between the parties.

The emails exchanged between the parties even much after March 2009 when the DA was executed clearly establishes that parties were discussing and had settled to execute two documents, one MOU and one DA. It appears MOU was prepared by the parties, however, was not signed because the DA was not ready. DA was signed in March 2009.

Indu Jain group had sold the property consequent to MOU and this fact is further established by the emails exchanged between the parties time to time and has been produced by the claimants.

It is apparent from the email exchanged between the parties that the parties agreed that the 9th and 10th floors will be taken by the Indu Jain group which is main reason of signing of MOU. Because the DA was also executed with builders, it does not mean that parties not bound by MOU. In a family even orally commitments are made which are honoured and in this family of which I am also part being very close relations, I know commitments have been honoured in past and must be

honoured in future. Since, Indu Jain group had agreed to pay the amounts mentioned in MOU to other groups and with this agreement they had sold 9th and 10th floors, they should pay the said amounts to the other groups. **Even after DA was executed in March 2009 Indu Jain group, their representatives have been acknowledging MOU. If after DA was executed on 05.03.2009, no amount was payable by Indu Jain group they would not have referred to MOU in subsequent emails. Parties agreed and understood that even after DA amounts agreed are payable.”**

(Emphasis added)

16. The emphasized portions above are all in the nature of appreciation of evidence. This cannot be assailed.

17. Then the Arbitrator interpreted the contents of the agreement. In essence he held that the Appellants must be bound by the bargain they stuck. His words were that they must pay the amounts agreed. Accordingly the learned sole Arbitrator held for the Respondents and against the Appellants.

18. He also dismissed the Appellants' Counter claim. We do not think there is any substance to the argument that the counter claim require any greater examination. It had to fail the moment the claim is allowed. Indeed, we find a very presentation of the counter claim in itself is problematic because if the case was that there was no agreement at all, then it is entirely unclear as to how a counter claim could have been made in a situation like this. The answer, suggesting that the counter claim was under the Development Agreement with

the builder, does not even withstand logic; it was not that agreement that was ever taken to arbitration, and could not have been, because that Agreement also had the developer as a party to it.

19. There is absolutely no substance in the appeal. The observations of the learned Single Judge in paragraph 8 are entirely correct. The purpose of the Arbitration Act is to ensure a quick and speedy disposal of disputes. It is emphatically not intended to foment a longer litigation. The Award in question is of 2012. The Section 34 Petition was filed in 2013. It was disposed of in January 2014. This Appeal has been pending ever since. This has now to end.

20. The Appeal is dismissed. All interim applications if any in appeal are disposed of as infructuous. No costs.

21. The Prothonotary and Senior Master is directed to retain the envelope and the Memorandum of Understanding in safe custody until further orders.

(V. G. Bisht, J)

(G. S. Patel, J)

-AMB 100:-39901382625.

Mr. Rajneesh Kr. Jain

c/o Mumukshu Bhawan Varanasi

Gurgaon Bazar, Amritsar - 143006

(98-2542134) / (9815811222)

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Ph - (9312274702)

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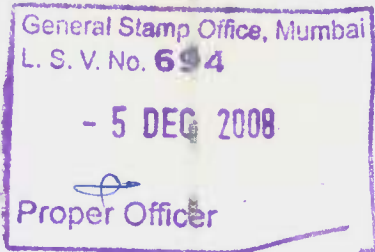
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महाराष्ट्र MAHARASHTRA

BP 561430



क्रमांक:- 142
लघुका: Seema Jain
सर्वश: यांना न्यायिक
विकला.

मुद्रांक विकला

Shri. M. D. KADAM

शितल शशांक गायकवाड

MEMORANDUM OF UNDERTAKING - CUM - PRIVATE PARTITION

This memorandum of understanding -cum-Private Partition is executed on this 26th day of December 2008 at Versova, Mumbai, Maharashtra between Mrs. Indu Jain wife of Shri Rakesh Jain & Mrs. Seema Jain wife of Shri Navin Jain both residents of 181/182 Casablanca Cuffe Parade Colaba, Mumbai, collectively referred to as party of the 1st Part and briefly described as Indu Jain Group.

[Signatures]
x Indu Jain x Seema Jain 1./7

AND

Usha Rani Jain wife of Shri R.B. Jain, Monika Jain wife of Shri Parshant Kumar Jain Son of Shri R.B. Jain, resident of 1-A 24 BP Neelam Bata Road, Faridabad, Saurabh Jain son of Shri R.B. Jain resident of 1A-24, BP Neelam Bata Road, Faridabad collectively referred to as party of the IInd part and briefly described as R.B. Jain Group.

AND

Urmila Devi wife of Shri P.B. Jain resident of 1-A 24 BP Neelam Bata Road, Faridabad, Sanjeev Jain son of Shri P.B. Jain resident of 1-A 24, B.P. Neelam Bata Road, Faridabad, Ashish Jain son of P.B. Jain resident of 1 A/24, B.P. Neelam Bata Road, Faridabad collectively referred to as party of the IIIrd Part and briefly described as P.B. Jain Group.

AND

Mrs. Sujata Jain wife of Shri Rakesh Kumar Jain,

Mrs. Parmod Jain wife of Shri Mahesh Kumar Jain,

Mr. Suresh Kumar Jain son of Shri S.P. Jain,

Mr. Yogesh Kumar Jain son of Shri S.P. Jain,

All residents of resident of W/10 -B, H-32, Sainik Form, New Delhi referred to as party of the IV the Part and briefly described as Mahesh Kumar & Brothers Group.

Unless the context otherwise required, the words party to his MOU shall mean and include their legal representatives, successors and assigns, if any. Whereas the parties to this memorandum are co-owners, along with

Indu Jain *Seema Jain* *2/7*

NR Group, of a plot of leasehold land bearing CTS No. 1279 Sq. No. 82 Plot No. 5 & 7, measuring about 5136.40 Sq. Meters or thereabout in village Varsova, Taluka Andheri, Mumbai, Surbarban District, hereinafter referred to as larger property larger property / plots of land at Varsova was agreed to be developed as per Amristar Court Award of 1998 by constructing two towers of equal size by consuming the entire available FSI by all the groups who were parties to the said suit.

AND whereas Tower A has fallen to the share of the parties to this memorandum alongwith , Smt. Kamlesh wife of Satender Kumar Jain resident of Plot No. 5 & 7, Village Varsova, Andheri (West), Mumbai, Amit Barar son of Shri Mahender Kumar Jain, Mr. Sameer Barar son of Shri Mahender Kumar Jain resident of Plot No. 5 & 7 village Versova Andheri (West) Mumbai and Mrs. Sunita Jain wife of Shri Upender Jain resident of House No. 289 Sector-21, Faridabad Tower A was partially partitioned interest the parties to this agreement and the aforesaid family members i.e. Smt. Kamlesh wife of Satender Kumar Jain resident of Plot No. 5 & 7, Village Andheri (West) Mumbai and Mrs. Sunita Jain wife of Shri Upender Jain resident of House No. 289 Sector-21, Faridabad were allocated floor No. 7 & 8 and part of floor No. 6 to them.

AND whereas Floor Nos.1, 2, 4, 9 & 10 (Pent House with attached terrace) has fallen to the share of parties I, II, II & IV mentioned above.

By a subsequent agreement with M/s JV Developers & Construction, Floor Nos.1 has been agreed to exchange with floor No.3 with parties I to

IV of this agreement.

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AND WHEREAS the shares of the parties I, II, III & IV of the undivided floors of Tower A were equal in share and each party was entitled to one floor each (in the undivided 2,3,4 & 9 Floors) and 25% each of the 10th Floor Penthouse with attached terrace area. However the party of the 1st Part has agreed to retain 100% of the area of the 10th Floor Penthouse with attached terrace, along with the complete 9th Floor. In cost & consideration of the same, the party of the 1st Part has agreed to pay party of the II part (i.e. R.B. Jain Group) Rs. 37.85 Lacs, Party of the III part (i.e. P.B. Jain Group) Rs. 17.85 Lacs & party of the IV Part (i.e. Mahesh Kumar & Bros Group) Rs. 32.85 Lacs. The total payments to parties II, III & IV as stated above would be in lieu of cost for taking complete, undisputed & 100% ownership & possession of the entire 10th Floor pent house with attached terrace.

The 10th Floor which is allotted to the party of the 1st Part i.e. the Indu Jain Group, will have lien of the above parties to the extent of the above payments until discharged. Lien will cease automatically on making of full & final payment to the above mentioned parties.

The party of the 1st part also agrees to make all above mentioned payments to parties II, III & IV ~~after obtaining Occupation Certificate.~~ *Seema Jain*
Indu Jain
10 [TEN] days of getting part occupation certificate or within 30 [Thirty] days of sale of 9th and 10th floor, whichever is earlier. *Hei*

AND keeping in view the aforesaid payments made by party of the 1st Part, the parties have agreed to divide the various portions/floors of the tower A in the following manner alongwith the conditions mentioned hereunder.

Hei *Hei* *Seema Jain* *4/7*

1. THIRD Floor of Tower A measuring approx. 2503 sq.ft. will belong to the Party of the III part i.e. the P.B. Jain Group.

2. FOURTH Floor of Tower A measuring approx. 2503 sq. ft. will belong to party of the IV part i.e. the Mahesh Kumar & Brothers Group (i.e. Mrs. Sujata Jain, Mrs. Parmod Jain, Mr. Suresh Kumar Jain & Mr. Yogesh Kumar Jain collectively in equal share).

3. SECOND Floor of Tower A measuring approx. 2503 sq. ft. will belong to party of the II part i.e the R.B. Jain Group.

4. NINTH Floor of Tower A measuring approx. 2503 sq. ft. & TENTH Floor Pent House measuring approx. 833 sq.ft. with attached terrace measuring approx. 1670 sq. ft. of Tower A, will belong to party of the 1st Part i.e. the Indu Jain Group.

Terrace above pent house shall remain in common use and benefit of all the occupants of the flat in the building for the purpose of water storage tank, lift etc, only.

Further construction as & when allowed by Govt. and or TDR if permitted will be constructed on and above 9th & 10th floor. The present occupants will have to shift to the upper floor with equivalent area. However a compensation for shifting up to Rs.20 lacs will be paid by the parties who are beneficiaries of the new permissible area. In case of dislodge suitable accommodation shall also be provided.

That Floor No.3 which earlier belong to M/s J.V. Builders which has been agreed to be exchanged by them with floor No. 1 for which a

separate agreement has been signed dated 3rd March 2009.

Indu Jain Seema Jain

9th

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The transfer of title if required through registered instrument or decree of the court shall be executed in favour of the co sharer in the manner specified above. Transfer charges if any to be borne by the new owner.

Past liabilities will be shared equally among all the four groups i.e. Mrs. Indu Jain Group, Shri Mahesh Kumar Jain and Brother's Group, Shri R.B. Jains's Group, Shri P.B. Jain Group & future liabilities arise if any will be shared in the proportion of the new ownership.

That in terms of the share holding the tower A stand distributed and partitioned in the manner referred to above with the consent of all the parties.

That in the event of any dispute arising inters parties with regard to interpretation, operation, implementation out of this agreement whether during the operation of the agreement or even thereafter it shall be referred to the sole arbitration of Shri Rajnish Jain S/o Late Shri Shadi Lal Jain of Amritsar whose decision shall be final and binding on all the parties and none of the party shall be able to approach the court in this regard. The provisions of Arbitration and conciliation Act shall be fully applicable for the settlement of dispute arising inters parties or their representatives.

In witness whereof the parties to this agreement have put their respective hands on the day, date and year first above mentioned at _____

SIGNED DEAELED AND DELIVERED BY)

Mrs. Indu Jain

) *Indu Jain*

Mrs. Seema Jain

) *Seema Jain*

Mrs. Usha Rani Jain

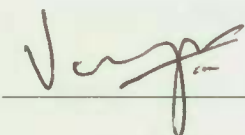
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} _____

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Mr. Saurabh Jain	}	_____	) Prashant Jain
Mrs. Monika Jain		_____	) through CA.
Mrs. Urmila Devi Jain	}	_____	) Prashant Jain
Mr. Sanjeev Jain		_____	) through CA.
Mr. Ashish Jain		_____	)
Mrs. Sujata Jain	}	_____	)
Mrs. Pramod Jain		_____	) Rakesh
Mr. Suresh Kumar Jain		_____	) then C.A.
Mr. Yogesh Kumar Jain		_____	)

Witnesses:

1. 
(VARUN JAIN)

2. 
(Ratan Bhatnagar)