

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 598 OF 2017

WITH

NOTICE OF MOTION NO. 2277 OF 2018

WITH

NOTICE OF MOTION NO. 1955 OF 2017

Daulat Hussainali Bishun

...Plaintiff

Versus

Godrej Properties Ltd. & Ors.

...Defendants

Mr. Shehzad Naqvi a/w Dr. S.A.A. Naqvi and Ms. Sana Samad, Ms. Shilpa Sharma for the Plaintiff.

Mr. Sarosh Bharucha, Ms. Dipti Das, Mr. Sunil A. Vyas i/b Fox Mandal & Associates for Defendant No.1.

Mr. Nikhil Rajeshirke for Defendant Nos. 3 and 4.

Plaintiff is present in Court.

CORAM : R.I. CHAGLA J

DATE : 4 October 2022

ORDER :

1. Matter has been kept today for compliance.
2. By order dated 14th September 2022, this Court had

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noted that the Plaintiff and Defendant No. 1 had agreed to settle the disputes in the matter and consent order recording such settlement was passed.

3. In (i) and (ii) of paragraph 1 of the said order, the consent order was recorded. The Plaintiff has sought to withdraw the proceedings mentioned in (i) within the period of two weeks from the date of the said order. In (ii) the Defendant No. 1 has undertaken to deposit with the Prothonotary and Senior Master of this Court the amount of Rs. 1,89,38,267/- (which includes the principal amount of Rs. 1,74,38,267/- and Rs. 15,00,000/- towards compensation) within a period of one week from the date of this order.

4. Liberty was granted to the Plaintiff to apply for withdrawal of the Suit and Notice of Motion filed therein upon compliance with the consent order which has been recorded in paragraph 2 of the said order.

5. The Affidavit of the Plaintiff dated 4th October 2022 is tendered which Affidavit is regarding compliance of the said consent order dated 14th September 2022 passed by this Court. The said

Affidavit is taken on record.

6. It is stated in the said Affidavit that the Plaintiff had duly complied with the said order dated 14th September 2022 by withdrawing and/or taking steps to withdraw the proceedings mentioned in paragraph 1(i) of the consent order.

7. In paragraph 8 of the said Affidavit, the Plaintiff has given irrevocable undertaking to voluntarily and on his own volition withdraw the Criminal Case No. 149/SW/2018 against Defendant No. 2 before his verification statement is recorded. It is further stated that the Plaintiff has amicably settled the dispute with the Defendant No. 1 and the case does not survive against the Defendant No. 2 as well as there are no grievance left against the Defendant No. 1. The undertaking is accepted as an undertakings to this Court.

8. It is stated by the learned Counsel for the Defendant No. 1 that pursuant to the said order dated 14th September 2022, an amount of Rs. 1,89,38,267/- has been deposited with the Prothonotary and Senior Master of this Court within the stipulated period of one week from the date of the said order.

9. Thus, the consent order dated 14th September 2022 has been complied with.

10. The consent order was passed in the Notice of Motion No. 2277 of 2018 which is for decree on admission under Order XII Rule 6 of the Code of Civil Procedure, 1908.

11. In that view of the matter, the Plaintiff is allowed to withdraw the said amount of Rs. 1,89,38,267/- deposited by Defendant No. 1 with the Prothonotary and Senior Master of this Court along with accrued interest, if any, and for which purpose, the said amount of Rs. 1,89,38,267/- shall be released by the Prothonotary and Senior Master of this Court within a period of two weeks from the date of this order.

12. The Plaintiff is granted leave to withdraw the Suit and Notice of Motion in view of the consent order dated 14th September 2022 having been complied with.

13. Suit No. 598 of 2017 is disposed of as withdrawn. Notices of Motion filed therein do not survive and are accordingly

disposed of.

14. Court fees are to be refunded in accordance with the Rules. For the purposes of Section 43 of the Maharashtra Court Fees Act and the proviso to that Section, today's date is the date of making a claim for repayment. The Prothonotary & Senior Master will issue a certificate for a refund of Court Fees computed according to the Rules. He will act on production of an authenticated copy of this order without requiring a separate application.

[R.I. CHAGLA J.]