

OCD-1

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[COMMERCIAL DIVISION]

IA NO. GA/5/2023
In CS/213/2018

LAXMI POLYFAB PVT LTD
Vs
EDEN REALTY VENTURES PVT LTD AND ANR

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : 18TH May, 2023.

Appearance:
Mr. Rajeev Kumar Jain, Adv.
Ms. Laila Khatun, Adv.
...for the plaintiff

Mr. Deepak Kumar Jain, Adv.
..for the respondents.

The Court: Counsel for the plaintiff and Counsel for the defendant
Nos. 1 and 2 are present.

Counsel for the defendant prays for leave to file Vakalatnama and
affidavit of competency. Let the same be filed in the course of the day in the
department.

The plaintiff and the defendant have filed joint application by
enclosing the Terms of Settlement and prays for disposal of the suit in terms
of Terms of Settlement entered between the parties. The Terms of Settlement
on the basis of which parties have settled their disputes reads as follows:-

*“a. The parties declare and confirm that the Memorandum of
Understanding dated July 3, 2013 as well as all contemporaneous
letters and documents exchanged by and between the plaintiff and*

the defendants and the same with regard to sale of apartment measuring about 2870 square feet on the 32nd floor together with servant's quarter and two car parking spaces in the proposed building to be erected at No. 47(formerly Nos. 47,80,51A and 53) Canal Circular Road, Kolkata-700054 have ceased to be binding and are thus delivered up and cancelled.

b. It is declared and confirmed that plaintiff do not have any right, title or interest of any nature in respect of and/or under the Memorandum of Understanding dated July 3, 2013.

c. It is declared and recorded that by consent of the parties there shall be a decree for an aggregate sum of Rs.2,33,52,090/- (Rupees Two Crores Thirty Three Lacs Fifty Two Thousand and Ninety) only in favour of the plaintiff and as against the defendant No. 1. The plaintiff is entitled to receive and the defendant No. 1 is liable to pay to the plaintiff an aggregate amount of Rs.2,33,52,090/- (Rupees Two Crores Thirty Three Lacs Fifty Two Thousand and Ninety) only (hereinafter referred to as the "Decreed Amount"), which includes the compensation amount of Rs.60,00,000/- (Rupees Sixty Lakhs) only, in full and final settlement of all its claim in the manner as stated hereinafter.

d. It is declared and confirmed that out of the said Decreed Amount of Rs.2,33,52,090/- (Rupees Two Crores Thirty Three Lacs Fifty Two Thousand and Ninety) only the defendant No. 1 has on or before the execution of this terms duly paid Rs.1,83,52,090/- (Rupees One Crore Eighty Three Lakh Fifty Two Thousand and Ninety Only) only to the plaintiff in the following manner:

Date	Cheque	Amount (Rs.)	Bank
05/05/2022	016118	20,00,000/-	Yes Bank
20/08/2022	534884	20,00,000/-	Yes Bank
24/11/2022	529583	20,00,000/-	Yes Bank

20/12/2022	464415	67,00,000/-	Yes Bank
22/02/2023	751534	50,00,000/-	Yes Bank
31/03/2023	392982	52,090/-	Yes Bank
	TDS	6,00,000/-	Yes Bank
	Total	1,83,52,090/-	

The plaintiff duly acknowledges and admits the receipt of Rs.1,83,52,090/- (Rupees One Crore Eighty Three Lakhs Fifty Two Thousand and Ninety Only) towards part satisfaction of the Decreed Amount as aforesaid.

e. The plaintiff duly acknowledges and admits the receipt of such part payment towards it's claim in the above suit and same in part satisfaction of the Decreed Amount as aforesaid. It is further confirmed and declared that the balance amount of Rs.50,00,000/- (Rupees Fifty Lakhs) only shall be paid to the plaintiff by defendant No. 1 simultaneously with the instant suit being disposed of in accordance with the Terms as recorded herein and interim orders, if any, passed in the instant suit being vacated by the Hon'ble Court."

Counsel for the plaintiff submits that in terms of Terms of Settlement mentioned in para (e) above, the defendants have handed over the demand draft No. 751533 dated 22nd February, 2023 in the name of the plaintiff amounting to Rs.50,00,000/- and the same has been handed over to the Counsel for the plaintiff in the Court today.

In view of the above, CS No. 213 of 2018 is disposed of.

The terms of settlement entered between the parties which was duly executed by the parties as well as the advocate on record of the parties be made as part of the decree.

The department is directed to draw up the decree as expeditiously as possible by making Terms of Settlement as part of the decree.

By an order dated 1st May, 2023 this Court is directed the plaintiff to take appropriate steps for substituted service upon the defendant No. 2 but now the defendant No. 2 has also appeared through the learned Counsel and have also executed the terms of settlement, accordingly, the order dated 1st May, 2023 with regard to the substituted service upon the defendant No. 2 is dispensed with.

GA No. 5 of 2023 is disposed of.

(KRISHNA RAO, J.)

Sbghosh