

Sharayu Khot.

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

**COMMERCIAL EXECUTION APPLICATION (L) NO. 26113 OF 2021
WITH
INTERIM APPLICATION NO. 2815 OF 2021**

Mehta Jaising Builders LLP

**...Judgment Creditor/
Original Claimant**

Versus

M/s. Om Siddhi Ventures & Ors.

**...Judgment Debtors/
Original Respondents**

Ms. Kausar Banatwala a/w Neuty Thakkar i/by Tushar Goradia for
the Applicant.

Mr. R.V. Govilkar, Senior Advocate a/w Mr. Sandeep A. Bhagwat for
the Defendants/Judgment Debtors.

CORAM : R.I. CHAGLA J

DATE : 1 March 2023

ORDER :

1. The Judgment Creditor/original Claimant and Judgment Debtors/original Respondents have arrived at a settlement. The Consent Terms bearing today's date are tendered, taken on record and marked 'X' for identification.

2. Consent Terms are signed by the Judgment Creditor/original Claimant and the Advocates for the Judgment Creditor/original Claimant as well as by the Judgment Debtors/original Respondent Nos. 1 to 6 and the Advocates for the Judgment Debtors/original Respondents. Parties are present in the Court except Judgment Debtor No. 2.

3. By these Consent Terms, the Judgment Debtors have agreed to pay an amount of Rs. 4,60,00,000/- in full and final settlement of the Award claimed by the Judgment Creditor in the manner mentioned in the Consent Terms without committing any default. In Clause 5 of the Consent Terms, the initial payment made by the Judgment Debtors to the Judgment Creditor is set out and which is admitted and acknowledged by the Judgment Creditor. The balance amount due and payable by the Judgment Debtors to the Judgment Creditor towards full and final settlement of all the claims of the Judgment Creditor is mentioned as Rs. 3,70,00,000/-.

4. Payment of Rs. 3,70,00,000/- in the manner mentioned in Clause 6 of the Consent Terms for which the Judgment Debtors have agreed, confirmed and undertaken to pay to the Judgment

Creditor. The postdated cheques drawn on ICICI Bank Limited, N.C. Kelkar Marg, Dadar Branch, Mumbai 400 028 are set out therein. It is mentioned in Clause 7 of the Consent Terms that the Judgment Debtors have handed over the postdated cheques to the Judgment Creditor, the particulars of which are mentioned in the tabular statement set out in Clause 7 of the Consent Terms. Further undertakings have been mentioned viz. that the postdated cheques shall be honoured on presentation to the bank for payment and under no circumstances, extension shall be sought by the Judgment Debtors. The default in honouring the postdated cheques have also been provided for in Clause 7 of the Consent Terms.

5. Further, the Judgment Debtors have agreed and undertaken not to sell, alienate and/or transfer and/or create any third party right, title and/or interest or part with possession of one flat bearing No. 1302 on the 19th floor level (13th habitable floor) admeasuring around 132.64 sq.meter RERA carpet area, 1427.73 sq.ft. RERA carpet area (*'the flat'*) in the project bearing F.P. Nos. 972, 973, 974, 975 and 976 TPS IV of Mahim Division, situated at the Junction of Gokhale Road (South) and Natvarya Shankar Ghanekar Marg, Dadar West, Mumbai – 400 028 in G/North Ward. The Flat has

been provided as collateral security of the Judgment Creditor.

6. Further, default in honouring the cheques on presentation is also provided in Clause 8 of the Consent Terms, by which Judgment Creditor is entitled to sell and dispose of the said flat in the open market, appropriate the sale proceeds towards its balance dues and interest and pay back the remaining balance (if any) to the Judgment Debtors.

7. The amended Intimation of Approval dated 7th February 2023 and the floor plan of the 19th floor (13th habitable floor) have been appended as Annexures A and B to the Consent Terms.

8. In view of the settlement arrived at between the parties and the payment of Rs. 3,70,00,000/- by the Judgment Debtors to the Judgment Creditor shall fully satisfy the claim of the Judgment Creditor and the Judgment Creditor shall not have any future claim of whatsoever nature against the Judgment Debtors arising under the present proceedings.

9. I am satisfied that the Consent Terms are in order, not

contrary to law and have been drawn by the parties of their own volition in reflection of their true intentions.

10. The undertakings, if any, in the Consent Terms being accepted as undertakings to the Court.

11. The Commercial Execution Application (L) No. 26113 of 2021 stands disposed of in accordance with the Consent Terms.

12. Interim Application No. 2815 of 2021 does not survive and is accordingly disposed of.

13. A soft copy of the Consent Terms will be uploaded as the second order in the matter.

14. The Registry is to ensure that the hard copy of the signed Consent Terms is permanently retained on file as part of the record and is not sent for destruction in the ordinary course.

15. The disclosure being made in the sealed cover to

this Court is returned to the Judgment Debtor, in view of the settlement arrived at in the above Execution Application.

[R.I. CHAGLA J.]