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

\+ CS(OS) 30/2021, I.A. 596/2021

CHANDER SAIN MAHNA ..... Plaintiff

Through: Mr. Abhimanyu Kr. Singla, Adv. (VC)

versus

RAJ MAHNA & ORS. ..... Defendants

Through: Mr.Sanjay Dewan, Mr. Anish Dewan, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

O R D E R

% **19.01.2024**

Both the parties submit that the matter has been settled amicably at Delhi High Court Mediation and Conciliation Centre vide settlement agreement dated 06.10.2023 on following terms and conditions;

1. It has been agreed between the Parties that they shall look for a suitable third party/builder and enter into a Collaboration Agreement with it for reconstruction of the suit property, which reconstruction shall consist of a basement, stilt parking, ground floor/ upper ground floor, first floor, second floor, third floor and terrace within 10 weeks of signing of the present settlement agreement.

2. It is further agreed between the Parties that they shall divide the reconstructed property as per the portions mentioned hereinbelow:

a. Basement and Ground Floor/Upper Ground Floor shall be equally divided between the Parties and they shall have ownership in the ratio of 50:50 over the same.

b. First Floor shall be solely owned by the Plaintiff.

c. Second Floor shall be jointly owned by the Defendants.

d. Third floor, terrace along with roof rights shall be owned by the third party/builder or whosoever the third party/builder sells the same to.

e. Two parking slots shall be owned by the Plaintiff and two parking slots shall be owned by the Defendants jointly. The remaining parking slots, if any, as well as the allocation/location of the respective parkings shall be negotiated by the Parties with the Third Party/Builder as per their convenience at the time of signing of the Collaboration Agreement as mentioned in para 1 of the Present Agreement.

3. It has been agreed between the Parties that apart from the terms mentioned hereinabove in Para 2 of the present agreement, the Plaintiff shall pay a sum of Rs. 10,00,000/- (Rupees Ten Lakh Only) to the Defendants within one month from the date of entering into a Collaboration Agreement with the third party/builder, in lieu of solely owning the First Floor. It is further agreed between the Parties that in ease of default, the Plaintiff shall be liable to pay interest @ 6% per annum upon the aforesaid amount to the Defendants from date due till its realization.

4. It is further agreed between the parties that in case the third party/builder gives any money to the Plaintiff and Defendants, then the amount so received from the third party/builder shall be equally divided between the Plaintiff and Defendants. Further, if in case such an amount is paid by the third party/builder then the Plaintiff would be at liberty to get the amount of Rs. 10,00,000/- (Rupees Ten Lakh), which the Plaintiff has to pay to the Defendants as per Para 3 of the present agreement, adjusted from his share of money to be received from the third party/builder and will communicate in writing to the third party/builder to pay the same directly to the Defendants.

5. It has been agreed between the Parties that the moveable assets of Late Joginder Sain shall be divided in the following manner between the Plaintiff and Defendants:

i) An amount of Rs. 4,47,880/- (Rupees Four Lakh Forty-Seven

Thousand Eight Hundred and Eighty Only) lying in account bearing No. 130000300116917, Punjab National Bank, Branch Paharganj, Delhi in the name of Late Joginder Sain shall be divided equally between the Plaintiff and Defendants in the ratio of 50:50.

ii) An amount of Rs. 5,38,052/- (Five Lakh Thirty-Eight Thousand Fifty- Two Only) lying in the joint account bearing No. 130000111621369, Punjab National Bank, Branch Paharganj, Delhi in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

iii) An amount of Rs. 1,40,000/- (Rupees One Lakh Forty Thousand Only) lying in the joint account bearing No. 19410100006498, Bank of Baroda, Vishakha Enclave Branch, Delhi in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

iv) An amount of Rs. 4,97,126/- (Rupees Four Lakh Ninety-Seven Thousand One Hundred Twenty-Six Only) lying in the joint account bearing No. 00980100006101, Bank of Baroda, Branch Paharganj, Delhi in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

v) An amount of Rs. 42,261/- (Forty-Two Thousand Two Hundred Sixty-One Only) lying in the joint account bearing No.00950100001944, Bank of Baroda, Branch Paharganj, Delhi in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

vi) A fixed deposit bearing No. 013PR034494 in Punjab National Bank, Branch Paharganj, Delhi for an amount of Rs. 6,13,913/- (Rupees Six Lakh Thirteen Thousand Nine Hundred Thirteen Only) which is jointly in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

vii) A fixed deposit bearing No. 013000MB00002849 in Punjab National Bank, Branch Paharganj, Delhi for an amount of Rs. 3,39,876/- (Rupees Three Lakh Thirty Nine Thousand Eight Hundred

Seventy Six Only) which is jointly in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

viii) A fixed deposit bearing No. 013000PR00039596 in Punjab National Bank, Branch Paharganj, Delhi for an amount of Rs. 5,936/- (Rupees Five Thousand Nine Hundred Thirty Six) which is jointly in the name of Late Joginder Sain and the Plaintiff shall be divided in the ratio of 75:25 between the Plaintiff and Defendants respectively.

ix) The shares/stocks/debentures in the name of late Joginder Sain shall be sold by the Parties and amount so received shall be divided equally between the Plaintiff and the Defendants in the ratio of 50:50. Both the parties will apply together for Succession certificate within one month of Collaboration agreement.

x) In case there is any other moveable property in the sole name of late Joginder Sain which has not been mentioned hereinabove, the same shall be equally divided between the Plaintiff and the Defendants in the ratio of 50:50.

xi) In case, there is any other moveable property in the Joint name of Late Joginder Sain and the Plaintiff, the same shall be divided between Plaintiff and Defendants in the ratio of 75:25 respectively.

Therefore, from the abovementioned figures as per Para 5 of the present agreement, the Plaintiff shall pay a total sum of Rs. 9,16,154.93/-(Rupees Nine Lakh Sixteen Thousand One Hundred Fifty Four and Ninety Three Paisa) to the Defendants towards their abovementioned share of the moveable properties out of the estate of

Late Joginder Sain and the same shall be paid within 30 days of the Parties entering into the collaboration agreement with the third party/builder. Shares/Stocks/Debentures will be divided separately as per Para 5 (ix) of the present agreement. Detailed list of moveable assets which is available with the Plaintiff is annexed herewith as Annexure-B.

6. The Defendants state that the property bearing House No.6346, Nabi Karim, Paharganj, Delhi-110055 which is in the name of Late

Joginder Sain is lying vacant whereas the Plaintiff denies the same. Further, the Parties agree to have 50% share each in the said property and in case the same is sold at any time in future, i.e., after due compliance and fulfillment of the collaboration agreement as mentioned in Para 1, 2 and 3, the sale proceeds thereof shall be equally divided between the Plaintiff and Defendants in the ratio of 50:50 and they shall cooperate with each other towards sale of the same. It is further agreed that the present agreement will remain valid even if said Paharganj, Delhi property remains unsold.

7. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future. The Parties further agree that the statements made by them herein in this Settlement Agreement shall be taken as their respective undertakings before the Hon'ble Court.

8. That in view of the aforesaid undertaking given by the Parties, the Parties agree that the suit bearing CS (OS) 30/2021 may be disposed of in terms of the Settlement Agreement.

9. That the parties confirm and understand that in case of any violation of the terms of the Settlement terms as set out above, they shall be liable for appropriate legal proceedings.

10. The Defendants shall have no objection if the Plaintiff approaches the Hon'ble Court to seek the refund of the Court fees in terms of Section 16 of the Court Fees Act, 1870 read with Section 89 Code of Civil Procedure 1908.

11. That the parties agree that they have executed the present settlement agreement by their free will and volition, without any force or pressure from anybody. The parties also agree that they have understood the contents of the present Settlement Agreement and they have consented to the same in its true letter and spirit, and as such they shall not dispute the same in future.

12. The Parties also agree to present themselves or through their Authorized Representatives before the Hon'ble Court to confirm the terms of the present Settlement Agreement, virtually or physically, as the case may be.

Learned counsel for the parties submit that in terms of the settlement the suit may be disposed of as compromised.

The settlement agreement is taken on the record.

The parties are held bound by the terms and conditions of the agreement.

The Decree sheet be withdrawn in view of the terms and conditions of the agreement.

Since the matter has been amicably settled, let the Court fee be refunded in accordance with the law.

In view of the above, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 19, 2024
Pallavi