



2024:DHC:6884



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

+ CS(OS) 254/2023 & I.A. 7911/2023 I.A. 10980/2023 I.A. 9110/2024
I.A. 30728/2024 I.A. 31869/2024 I.A. 32317/2024 I.A. 38591/2024
I.A. 38592/2024

AJAY BALUJA

.....Plaintiff

Through: Mr. Viraj R. Datar, Sr. Adv., with Mr.
Nitish Chaudhary, Mr. Shaurya
Aditya Singh, Mr. Srikant, Adv., with
Plaintiff in person

versus

ABHISHEK DUTT

.....Defendant

Through: Ms. Jyotsana Singh, Adv.
Mr. Sarad Kumar Sunny, Mr. Keshav
Mann, Ms. Nandini, Advs. for
applicant in I.A. No. 31869/2024 and
I.A. 32317/2024

Date of Decision: 06th September, 2024**CORAM:****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****J U D G M E N T (ORAL)****I.A. 38592/2024 (Application under Order XXIII Rule 3)**

1. This is an application filed by the parties under Order XXIII Rule 3 read with Section 151, of the Code of Civil Procedure ('CPC'), seeking a decree in the captioned suit on the basis of Settlement Agreement dated 12.08.2024 ('Settlement Agreement'). The application is supported by the affidavits of both the parties.



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2. Learned senior counsel for the plaintiff states that the material terms agreed between the parties are set out at Clause 1(a) to (l) of the Settlement Agreement.

2.1. He states that there is a stipulation with respect to entitlement of the plaintiff with respect to the recovery of damages at the rate of Rs. 2 lakhs per month with effect from July, 2022 and interest on the outstanding payments.

2.2. He states that as per the Settlement Agreement, parties have agreed that if the defendant performs his obligations in a timely manner, the plaintiff will waive his right to recover the damages and interest on the outstanding payments. He states however, if there is a delay in performance, the plaintiff will become entitled to receive damages at the rate of 2 lakhs per month for each month of default and interest on the outstanding payments.

3. Learned counsel for the defendant as well confirms the settlement agreement arrived between the parties and the stipulation with respect to the payment of damages at Rs. 2 lakhs per month and interest on the outstanding payments. She states that the defendant acknowledges that Rs. 2 lakhs per month is a liquidated amount and pre-determination of the loss, which the defendant admits the plaintiff is likely to suffer on account of the delayed performance.

3.1. She states that defendant will perform the terms of the settlement agreement as per the timelines set out therein.

4. Mr. Sarad K. Sunny, learned counsel appearing for applicant in *I.A.31869/2024* and *I.A. 32317/2024* states that in view of the settlement executed between the plaintiff and defendant, he seeks to withdraw the said



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applications and has no opposition to this settlement agreement.

5. This Court has perused the terms of the Settlement Agreement dated 12.08.2024 and in view of the aforesaid statements made by the counsels on instruction from the parties to the suit, this Court is of the opinion that there does not appear to be any impediment in grant of decree in terms of the settlement agreement. This Court is satisfied that the parties have arrived at lawful settlement on the terms detailed in the settlement agreement

6. The parties herein are bound down to the terms and obligations agreed in the Settlement Agreement.

7. Accordingly, the said settlement agreement is taken on record and the suit is decreed in terms thereof.

8. The application is disposed of in the aforesaid term

I.A. 38591/2024 (Application on behalf of plaintiff under Section 16A, Court Fees, Act, 1870 CPC)

9. This is an application filed by the plaintiff seeking refund of the Court fees in view of the Settlement Agreement. Learned senior counsel for the plaintiff prays for the refund in terms of Section 16A of Court Fees Act, 1870.

10. This Court is of the considered opinion that in view of the settlement arrived between the parties and having regard to the judgment of the Supreme Court in High Court of Judicature at **Madras v. M.C. Subramaniam & Ors. [(2021) 3 SCC 560]** the prayer sought by the plaintiff in the captioned application is hereby allowed to the extent that the registry is directed to refund of 90% of the Court fees in the name of plaintiff within four (4) weeks, in accordance with law.

11. It is however, made clear that direction for the refund of Court fees



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has been permitted in view of the Settlement Agreement arrived between the parties, however, in the event there are defaults by the defendant and the plaintiff is compelled to file an execution of the decree passed today in terms of the Settlement Agreement, the plaintiff, therefore, will become liable to deposit entire Court fees payable on the decree.

12. Learned senior counsel for the plaintiff has consented to the aforesaid directions.

13. With the aforesaid direction, the application stands allowed.

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14. The suit is accordingly decreed in terms of the Settlement Agreement dated 12.08.2024, the same shall form part of the decree. The registry is directed to draw up a decree in terms thereof.

15. All pending applications stand disposed of.

16. Interim order dated 26.04.2023 stands vacated.

17. All further dates of hearing in the suit are hereby cancelled.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 6, 2024/hp/ms

Click here to check corrigendum, if any