



2024 : DHC : 3247-DB

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

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Judgment delivered on: 25.04.2024

+ **FAO(OS) 150/2022 and CM No.55850/2022****ALOK GUPTA AND ORS.**

..... Appellants

versus

NIKITA GUPTA

..... Respondent

Advocates who appeared in this case:

For the Appellants : Mr Tanmaya Mehta, Mr Sourabh Gupta and Mr Puneet Yadav, Advocates.

For the Respondent : Mr H.S. Phoolka, Senior Advocate with Ms Prabhsahay Kaur, Mr Bir Inder Singh Gurm, Ms Surpreet Kaur, Ms Pragati Singh and Mr Sagar Mudhol, Advocates.

CORAM**HON'BLE MR JUSTICE VIBHU BAKHRU****HON'BLE MS JUSTICE REKHA PALLI****JUDGMENT****VIBHU BAKHRU, J.**

1. The appellants have filed the present intra court appeal impugning an order dated 17.11.2022 (hereafter *the impugned order*) passed by the learned Single Judge of this Court in an application being IA No. 18298/2022 in CS(OS) 553/2016 captioned *Nikita Gupta v. Shri Alok Gupta and Others*. The respondent had filed the said application, *inter alia*, praying that (i) an order be passed for disposal of the suit [CS(OS) 553/2016] in terms of the order dated 03.06.2022 passed by



this Court in FAO(OS) 208/2019; and (ii) further directions be issued for continuing Counterclaim no.19 of 2017 in CS(OS) 553/2016 in terms of the aforesaid order dated 03.06.2022 passed in FAO(OS) 208/2019.

2. The appellants (who are arrayed as the defendants in the aforementioned suit and had filed the aforementioned application) contend that in terms of the order dated 03.06.2022 passed in FAO(OS) 208/2019 (also referred to as *the compromise decree*), all disputes in the suit were settled and the proceedings survived only in respect of the counter claims. The compromise decree provided that in the eventuality the appellants handed over the possession of the suit property to the respondent, the appellants could pursue their counter claims. They contend that the possession of the suit property was handed over and all disputes save and except the counter claims filed by the appellants, stood concluded.

3. The learned Single Judge did not accept the said contention and interpreted the compromise decree as confined to the question of possession of the suit property and not dispositive of other claims.

4. The sole controversy that arises in the present appeal is in respect of the interpretation of the compromise decree.

FACTUAL CONTEXT

5. It is relevant to briefly note the context in which the controversy arises.



6. The respondent [plaintiff in the above-captioned suit – CS(OS) 553/2016] had filed the said suit before the learned District Judge, Tis Hazari Courts, *inter alia*, praying for possession and damages/*mesne* profits. The respondent sought a decree for the possession of the suit property described as a property measuring 62 square yards situated in front of the property bearing No. J-108A, Rajouri Garden, Village Bassai Darapur, New Delhi consisting of one Shop on the ground floor, two room set on the first floor and the second floor and one room on the third floor as depicted in the site plan appended with the plaint (hereafter *the suit property*). The respondent also sought a decree for a sum of ₹9,00,000/- along with interest at the rate of 12% per annum from the date of institution of the suit till its realization. In addition, the respondent claimed a sum of ₹3,00,000/- per month with effect from 01.01.2016 till the date of handing over possession of the suit property.

The respondent's (plaintiff's) case

7. The respondent states that Sh. Sant Raj Gupta, since deceased, was the maternal uncle of Mr. Kapil Gupta (the husband of the respondent). The appellants are legal heirs of late Sh. Sant Raj Gupta. Appellant no.2 is the wife of late Sh. Sant Raj Gupta and appellant nos.1, 3, 4 and 5 are his sons and daughters.

8. The respondent claimed that Late Sh. Sant Raj Gupta became the sole and exclusive owner of area measuring 91.5 square yards (including the suit property) along with the construction built thereon, which was a part of the property bearing No. J-108A Rajouri Garden,



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Village Bassai Darapur, New Delhi measuring a total 388.8 square yards, in terms of the registered Partition Deed dated 29.01.1999. Late Sh. Sant Raj Gupta operated a retail business of Saree Showrooms from the said property.

9. Sh. Sant Raj Gupta expired on 18.04.2014 and the appellants succeeded to his estate and each of the appellants became owner of 1/5th undivided share in the afore-mentioned property (91.5 square yards built up property – hereafter also referred to as *the said property*).

10. The respondent claimed that the suit property was a part of 91.5 square yards (the said property). Although, the respondent states that the appellants had inherited the said property in equal shares, the same was managed and looked after by appellant no.1.

11. The respondent states that she and her husband had cordial relations with late Sh. Sant Raj Gupta during his life time as well as with the appellants.

12. It is the respondent's case that appellant no.1 had availed cash loans from her husband (Mr. Kapil Gupta) on various occasions and the aggregate amount exceeded ₹3,80,00,000/- (Rupees Three crores Eighty lacs only). A part of the aforesaid loan was given to appellant no.1 through the respondent's father. The respondent claimed that appellant no.1 had acknowledged a cash loan amounting to ₹3,79,16,250/- in his own handwriting.



13. The respondent claimed that her husband had made repeated requests to appellant no.1 to return the loans taken by him, but he avoided repaying the same on one pretext or the other. However, on being finally confronted, appellant no.1 represented that the loans would be repaid immediately on receiving consideration for the said property.

14. The respondent states that appellant no.1 was unable to avail further loans from the market and was finding it difficult to pay his creditors. In view of his deteriorating financial condition, he approached the respondent's husband (Mr. Kapil Gupta) in the first week of September, 2015 expressing his desire to sell the said property. She claimed that she and her husband were interested in purchasing the said property and accordingly, agreed to purchase the same for a total consideration of ₹8,50,00,000/- (Rupees Eight crores Fifty lacs Only). Out of the aforesaid sum, a sum of ₹1,50,00,000/- was agreed to be paid by five cheques of ₹30,00,000/- each in the name of each of the appellants as each of them had equal shares in the said property. In addition to the payment of ₹1,50,00,000/-, appellant no.1 also agreed that a sum of ₹2,30,00,000/- out of the total outstanding cash loan of ₹3,80,00,000/- would be adjusted towards discharge of the purchase consideration.

15. The respondent claims that appellant no.1 executed a receipt on 22.09.2015 acknowledging that he had received an amount of ₹2,30,00,000/- in addition to the amount of ₹1,50,00,000/- (five



cheques of ₹30,00,000/- each). The respondent claimed that the amount of ₹1,50,00,000/- was paid in cheque at the instance of appellant no.1 as he wanted to avoid payment of tax on capital gains.

16. The respondent claimed that in terms of their agreement, appellant no.1 had agreed to vacate the Shop on the Ground Floor of the suit property by 31.12.2015. The respondent stated that the possession of the Third Floor was handed over to the respondent on 22.09.2015. However, since the only access to the Third Floor of the suit property was through the Shop, no locks were put on the Third Floor. However, subsequently, appellant no.1 defaulted in the obligations to hand over vacant possession of the Shop on the Ground Floor and further denied the respondent and her husband access to the Third Floor.

17. The respondent claims that sometime on 23.09.2015, she and her husband became aware that appellant no.1 had sold a part of the said property (rear portion) to a third party. Thus, only the suit property (measuring 62.0 square yards consisting of one Shop on the Ground Floor, Two Room set on the First Floor and Second Floor and One Room on the Third Floor) remained with the appellants. The respondent claims that in view of this development, the parties agreed that the total consideration as agreed for the said property (₹8,50,00,000/-) would be proportionately reduced by 32%. Thus, the total consideration was reduced from ₹8,50,00,000/- to ₹5,78,00,000/-.

18. The respondent claimed that out of the total consideration of ₹5,78,00,000/-, the respondent had already paid a sum of ₹3,80,00,000/-



as mentioned (₹2,30,00,000/- by adjusting of cash loans and ₹1,50,00,000/- by cheques). Thus, only a balance amount ₹1,98,00,000/- remained payable in respect of the suit property. However, appellant no.1 was also liable to repay the balance cash loan of ₹1,50,00,000/- (₹3,80,00,000/- less ₹2,30,00,000/-). And, the parties had, thereafter, also agreed that the remaining cash loan of ₹1,50,00,000/- would be adjusted against the balance consideration of ₹1,98,00,000/- payable for the purchase of the suit property. Thus, after the adjustments, only a sum of ₹48,00,000/- would remain payable as towards the balance sale consideration.

19. The respondent claimed that the parties agreed that the said amount of ₹48,00,000/- would be payable in cash at time of the execution of the sale.

20. The appellants executed a Sale Deed dated 24.09.2015 (hereafter *the Sale Deed*) in respect of the suit property and the same was also registered on the said date. The respondent claims that at the time of execution of the Sale Deed, the balance consideration of ₹48,00,000/- was paid in cash. The respondent also handed over five cheques of ₹30,00,000/- each to the appellants.

21. The respondent claimed that it was understood between the parties that the cheques would be deposited after handing over the possession of the suit property. However, the appellants presented the cheques without handing over the physical possession of the suit property.



22. The respondent claimed that the suit property would otherwise fetch a minimum rent of ₹3,00,000/- per month. Accordingly, the respondent issued a legal notice dated 12.12.2015 calling upon the appellants to handover the physical possession of the suit property along with damages at the rate of ₹3,00,000/- per month from 01.10.2015.

23. The appellants responded to the said legal notice and set up a defence that the balance amount of ₹4,70,00,000/- for the suit property remained to be paid.

The Defence and Counterclaims

24. The appellants (defendants in the suit) filed a written statement claiming that the entire consideration payable for the suit property was not ₹5,78,00,000/- as claimed by the respondent, but was ₹8,50,00,000/-. The appellants disputed that the consideration was required to be proportionately reduced on account of portion of the said property being sold prior to the execution of the Sale Deed in favour of the respondent. Additionally, the appellants also took a stand that the stamp duty paid on the Sale Deed was insufficient as the value of the suit property was not ₹1,50,00,000/- but ₹8,50,00,000/-. The appellants also claimed that the Sale Deed was illegal as it was executed reflecting the lower value for concealing the unaccounted money.

25. Next, the appellants claimed that the respondent had instituted the suit to recover the cash loan, which was concealed by her husband



in order to evade the payment of taxes. Thus, the Court would not assist in the recovery of black money.

26. According to the appellants, a sum of ₹4,70,00,000/- was payable by the respondent as the balance consideration for sale of the suit property. The appellants claimed that since the respondent had not paid the same, the appellants were entitled to claim the same with interest.

27. The appellant also filed a counter claim claiming the balance consideration of ₹4,70,00,000/- (₹8,50,00,000/- as agreed less ₹3,80,00,000/-) along with interest.

28. The appellants also disputed that no portion of the said property was sold by the appellants after entering into the Sale Deed with the respondent's husband. They claimed that late Sh. Sant Raj Gupta had in his lifetime, sold parts of the said property admeasuring 30-31 square yards approximately to one Sh. Ashwani Kumar and Sh. Inder Raj by respective Sale Deeds dated 05.12.2002.

29. The appellants claimed that the entire consideration agreed for the suit property was ₹8,50,00,000/- and not ₹5,78,00,000/-.

Application Under Order XII Rule 6 of the Code of Civil Procedure (IA No. 7334/2017 in CS(OS) 553/2016)

30. The respondent filed an application under Order XII Rule 6 of the Code of Civil Procedure, 1908 (hereafter *CPC*), *inter alia*, praying that a partial decree be passed for recovery of possession of the suit property on the basis of the admission in the written statement. The



respondent claimed that the appellants had admitted that they had entered into the registered Sale Deed in favour of the respondent. The Sale Deed in respect of the suit property in favour of the respondent was admitted by the appellants in their affidavits of admission and denial filed on 25.04.2017.

31. The Sale Deed expressly acknowledged that no further amounts were due from the respondent. Clause 13 of the Sale Deed is relevant and reads as under:

“13. That no amount whatsoever now remains due from the VENDEE(S) to the VENDOR(S) and he/she/they (THE VENDOR(S) has/have received the full and final consideration of the said property from the VENDEE(S) and the VENDOR(S) has/have hereinafter no interest left in the said property hereby conveyed.”

32. The respondent stated that various clauses of the Sale Deed clearly indicate that the ownership of the suit property was transferred to the respondent. The appellants had filed a counter claim for recovery of an amount of ₹5,45,20,000/- (being the balance consideration of ₹4,70,00,000/- and interest at the rate of 12% per annum with effect from 24.09.2015 till 24.01.2017 quantified at ₹75,20,000/-). The respondent contended that the counter claim was being contested. However, it was admitted that the suit property was transferred to her and therefore, she was entitled to a decree for possession of the suit property.



33. The learned Single Judge rejected the said application by an order dated 21.05.2019.

34. The respondent appealed the said order before the Coordinate Bench of this Court [being FAO(OS) 208/2019 captioned *Nikita Gupta v. Alok Gupta and Others*]. The same was disposed of by the compromise decree regarding the terms of the settlement and expressly stating that the same is construed to be a decree of the suit.

Compromise Decree/ Consent Order dated 03.06.2022

35. During the course of the proceedings in FAO(OS) 208/2019, the parties arrived at a settlement on the terms and conditions that were recorded in the compromise decree. The said order is set out below:

“1. During the course of the arguments, the parties have arrived at a settlement on the following terms and conditions:

i. The respondent has agreed to refund the amount of Rs. 4.40 crores to the appellant. The said amount shall be refunded in two instalments namely first instalments of Rs. 1 crores within the first 3 months from today, and the balance amount before the expiry of 8 months from today.

ii. In case, the respondent makes the said refund, the appellant agrees to the cancellation of the Sale Deed dated 24.09.2015, in respect of the suit property, in favour of the respondent. Thus, upon repayment of the amount of Rs. 4.40 crores as aforesaid, the Sale Deed dated 24.09.2015 shall be deemed to be cancelled.

iii. It shall be open to the respondent, for the purpose of repaying the amount of Rs. 4.40 crores to the appellant, to bring a buyer of his choice, provided the buyer is willing to pay the consideration of, or in excess of Rs. 4.40 crores. If such a buyer is brought by the respondent, the appellant



agrees to transfer the property to the buyer on the condition that consideration/ part consideration thereof of Rs. 4.40 crores shall be transferred directly to the appellant by the vendee/ purchaser brought by the respondent. It shall be no concern of the appellant as to what is the actual consideration, and the balance amount, if any, may be pocketed by the respondent. In case, the appellant does not execute the Sale Deed pursuant to the compliance of the aforesaid terms by the respondent, it shall be open to the respondent to pray for execution of the Sale Deed to the Court Commissioner.

iv. This is an option which is available to the respondent. It goes without saying that the respondent may, otherwise arrange funds to fulfil its obligation to repay the appellant the amount of Rs. 4.40 crores.

v. In the eventuality of the respondent not repaying the amount of Rs. 4.40 crores as aforesaid, the respondent agrees to vacate the suit property and handover possession thereof to the appellant. In that eventuality, a decree for possession shall follow in favour of the appellant/ plaintiff which the appellant/ plaintiff shall be entitled to execute. In that eventuality, the respondent may pursue its counterclaim filed in the suit of the appellant.

vi. It is agreed that this order constitutes a compromise decree in the Suit.

2. The respondent No.1 is present in Court, and we have also interacted with him. He has agreed to the aforesaid terms and conditions after understanding the implications thereof. He states that this settlement has been arrived at with the consent of his Mother i.e. respondent No.2 and his three sisters i.e. respondent No. 3, 4 and 5.

3. The Husband of the appellant/plaintiff is also present, and, on instructions from the appellant/ plaintiff, he has consented to the aforesaid terms.

4. The terms of the settlement shall be duly signed by the parties by appending their signatures on this Order Sheet. Both parties



shall also file their respective undertakings in the Court to comply with the terms and conditions as aforesaid. Breach of the undertakings shall invite action under the Contempt of Court Act.

5. The undertakings be filed within next two weeks.

6. The appeal stands disposed of in the aforesaid terms.”

36. The appellants claim that they were unable to make arrangements for repayment of the amount of ₹4,40,00,000/- to the respondent (plaintiff). In terms of the compromise decree, the appellants handed over the physical possession of the suit property to the respondent. The appellants also filed an application [CM No.38590/2022 in a disposed of FAO(OS) No.208/2019] to bring on record that they were ready and willing to hand over possession of the suit property in terms of the compromise decree. The said application was disposed of by an order dated 02.09.2022 with the observation that “*nothing needs to be done insofar as the application is concerned*”.

37. Thereafter, the appellants filed an application [IA No.18298/2022 in CS(OS) No.553/2016], *inter alia*, praying that the suit be disposed of in terms of the compromise decree [Order dated 03.06.2022 passed in FAO(OS) No.208/2019] and an order be passed continuing the proceedings in Counterclaim No.19/2017 in [CS(OS) No.553/2016]. The said application was rejected by the impugned order.

Impugned order



38. The learned Single Judge held that the compromise decree was confined to the dispute regarding handing over of possession of the suit property. Thus, the claim of the respondent (plaintiff in the suit) with regard to possession of the suit property stood decreed. However, the respondent could pursue the claim regarding damages / *mesne profit* on account of delay in handing over the suit property.

The subject controversy

39. The only question that requires to be address is whether in the aforesaid context, the compromise decree was dispositive of the respondent's suit [CS(OS) No.553/2017] or is confined to the disposal of the respondent's claim in regard to possession of the suit property.

REASONS AND CONCLUSION

40. It is noted that the subject matter of appeal in FAO(OS) No.208/2019 was whether the respondent was entitled to a decree of possession of the suit property on the basis of the admissions made by the appellants in their written statements.

41. A plain reading of Counterclaim No. 19/2017 indicates that there is no dispute that the appellants had executed the Sale Deed in respect of the suit property recording the entire sale consideration for the suit property as ₹1,50,00,000/-. The Sale Deed also unequivocally acknowledged that the appellants had received the entire consideration for sale of the suit property and nothing further was recoverable from the respondent. It is also acknowledged in the Sale Deed that the



possession of the suit property was delivered to the respondent on the spot. Notwithstanding the unambiguous admissions made in the written statement, the appellants had set up a case that they had received only part of the consideration for the suit property and the respondent was liable to pay the balance amount of ₹4,70,00,000/-. The appellants' Counterclaim was for the recovery of the said amount along with interest.

42. Thus, there is no dispute that the appellants had sold the suit property to the respondent and also executed the Sale Deed for conveyance of the suit property. However, the respondent's application for a decree of possession on admissions [IA No.7334/2017 under Order XII Rule 6 of the CPC in CS(OS) No.553/2016] was dismissed by the learned Single Judge.

43. The learned Single Judge noted that it was sufficient for the respondent to have pleaded the execution of the registered Sale Deed which was admitted. Since an oral agreement cannot be set up contrary to the written deed, the appellants could not set up a defence of an oral agreement to the effect that the entire consideration was not paid and the possession of the suit property was not required to be handed over till payment of the balance sale consideration. However, the respondent had admitted that the registered Sale Deed did not reflect the correct sale consideration. It is the respondent's case that an oral agreement to the effect that the sale consideration for the suit property was ₹5,78,00,000/- (₹8,50,00,000/- reduced to ₹5,78,00,000/-) and that the



possession of the suit property would be handed over on payment of the balance consideration which according to the respondent was ₹48,00,000/-. The respondent was required to prove that the sale consideration was ₹5,78,00,000/-, as pleaded, and that the same was paid. The learned Single Judge held that till the said facts were not proved, the respondent would not be entitled to the decree of possession. The order dated 21.05.2019 clearly indicates that the subject matter involved was whether the respondent required to prove the correct sale consideration for the suit property as well as establish that the same had been paid, in order to secure a decree of possession. However, there is no dispute that the appellants had executed a conveyance for transfer of the suit property.

44. The respondent had also claimed damages for delay in handing over possession of the suit property at ₹3,00,000/- per month with effect from 01.10.2015 till the date of possession. The same was not the subject matter of the respondent's application for a decree of possession on admission [IA No.7334/2017 under Order XII Rule 6 of the CPC in CS(OS) No.553/2016].

45. As noted above, the order dated 21.05.2019 dismissing the said application was carried in appeal. Thus, the appeal [FAO(OS) No.208/2019] was also confined to the question whether the respondent was entitled to a decree of possession of the suit property.



46. The compromise decree (settlement terms) must be construed in the aforesaid backdrop where the respondent's claim for a decree of possession on admissions was rejected, and the suit and counterclaim were committed to trial. The appellants had admitted receipt of ₹3,80,00,000/-, as their counter claim for ₹4,70,00,000/- along with interest is premised on the basis that the total consideration for the suit property was ₹8,50,00,000/- but they had received a sum of ₹3,80,00,000/-

47. Clause (i) of the Terms of Settlement in the compromise decree records that the appellants had agreed to refund the sum of ₹4,40,00,000/- to the respondent in two installments. If the said amount was refunded, the respondent had agreed to cancel the Sale Deed in respect of the suit property. There is no cavil that Clause (i) and (ii) would conclude the disputes between the parties. In the event the Sale Deed was cancelled, there was no question of the appellants pursuing their Counterclaims which are essentially for recovery of the balance consideration of the suit property and the interest thereon. The respondent's claims in the suit would not survive. This is because in terms of the compromise decree, the respondent would cancel the sale deed and thus would have no right and interest in the suit property, which is the foundation of respondent's claim for possession and damages.

48. Clause (iii) of the Terms of Settlement in the compromise decree enables the appellants to find another buyer willing to pay the



consideration of ₹4,40,00,000/- or in excess, thereof. If the appellants had found a buyer who was willing to pay the higher amount than ₹4,40,00,000/- for purchasing the suit property, the respondent would be obliged to sell the same to the said buyer. However, she would receive only a sum of ₹4,40,00,000/- and the balance amount would be appropriated by the appellants. In this eventuality, as well, there would be no question of either parties pursuing any of their claims / counterclaims as the cancellation of the Sale Deed would essentially extinguish further rights. Clause (iv) of the Terms of Settlement in the compromise decree merely clarified that the appellants could also make arrangements to pay a sum of ₹4,40,00,000/- on its own.

49. Clauses (v) and (vi) of the consent Terms of Settlement in the compromise decree are important and pivotal to the controversy and are reproduced below for ready reference:

“(v) In the eventuality of the respondent not repaying the amount of Rs. 4.40 crores as aforesaid, the respondent agrees to vacate the suit property and handover possession thereof to the appellant. In that eventuality, a decree for possession shall follow in favour of the appellant/ plaintiff which the appellant/ plaintiff shall be entitled to execute. In that eventuality, the respondent may pursue its counterclaim filed in the suit of the appellant.

vi. It is agreed that this order constitutes a compromise decree in the Suit.”

[emphasis added]

50. As is apparent from the plain language of the compromise decree, clause (v) of the Terms of Settlement in the compromise decree



specifically provides that in the eventuality of appellants not paying the amount of ₹4,40,00,000/-, they would be obliged to vacate the suit property and handover its possession to the respondent. It was expressly clarified that in this case, a decree of possession would follow in favour of the respondent. However, the appellants would be entitled to pursue their Counterclaims.

51. Clause (v) of the Terms of Settlement in the compromise decree also clearly contemplates the obligation of the appellants to handover possession of the suit property to the respondent and the same being treated as a “decree for possession” which the respondent would be entitled to execute. As noted earlier, this, was the subject matter of the respondent’s appeal [FAO(OS) No.208/2019], which was disposed of by the compromise decree. In such eventuality, the other disputes including other claims of the respondent and the counter claims of the appellants would survive.

52. Clause (vi) of the Terms of Settlement in the compromise decree merely indicates that the aforesaid terms constitute a compromise decree in the suit. Thus, are enforceable and not appealable.

53. The reference to the Terms of Settlement in the compromise decree has to be construed in respect of the subject matter of the appeal – the respondent’s claim for a decree of possession on admissions.

54. The appellants contention that the rights of the respondent to pursue other claims stood foreclosed on the possession of the suit



property being handed over to the respondent, is not persuasive. Clause (v) of the Terms of Settlement in the compromise decree expressly provides that the failure to pay the amount of ₹4,40,00,000/- would result in a decree of possession in favour of the respondent, which would be executable. It does not provide that the other claims are rejected.

55. The Terms of Settlement in the compromise decree have to be read in a meaningful manner. As discussed earlier, there was no dispute that the suit property was conveyed to the respondent. Thus, the respondent was entitled to possession of the same. The appellants had withheld the possession of the suit property on the ground that they had not been paid the entire consideration. The question whether the same was paid is the core dispute between the parties. This dispute would not survive if the matter was settled by cancellation of the sale transaction. But would survive if the possession was handed over. The appellants would be entitled to pursue their Counterclaims for the balance consideration along with interest (as claimed in Counterclaim No.19/2017). In the eventuality that the sale was not cancelled, the respondent's claim for delay in handing over the suit property and other claims would survive as well.

56. If the appellants fail in their Counterclaims, that is, it is established that the respondent had paid the entire consideration, the respondent's claim that she was entitled to possession of the suit property would stand established. There is no reason to preclude the



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respondent from pursuing her claim for delay in handing over possession particularly since no such rights were given up by the respondent in terms of the compromise decree.

57. In view of the above, we find no infirmity with the decision of the learned Single Judge in interpreting the compromise decree in the context of the subject matter of controversy in the appeal – the respondent’s claim for a decree of possession on admissions.

58. The appeal is accordingly dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

REKHA PALLI, J

APRIL 25, 2024

RK