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

+ **W.P.(C) 17651/2022**

OMEGA PROMOTERS PRIVATE LIMITED Petitioner

Through: Mr. Vikas Gupta, Mr. Ishaan Gupta,
Mr. Sohil Sharma, Mr. Tanveer Gaur
and Mr. Gaurav Kaushik, Advocates.

versus

MR. DARSHAN KULKARNI & ANR. Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

08.05.2024

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CM APPL. 27157/2024

1. The instant application has been filed on behalf of the Petitioner for early hearing.
2. For the reasons stated in the application, the same is allowed.
3. The matter is being taken up for hearing today itself.
4. The application is disposed of.

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1. The Petitioner has approached this Court challenging Order dated 18.10.2022 passed by the National Consumer Dispute Redressal Commission (NCDRC) in the first appeal.
2. Vide Order dated 15.12.2023, this Court referred the matter to mediation and Mr. J P Sengh, learned Senior Counsel, was requested to mediate between the parties.
3. With the efforts of Mr. J. P. Sengh and the cooperation of the parties,

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the matter stands settled. Settlement Agreement dated 01.05.2024 is on record and the same reads as under:

“ SETTLEMENT AGREEMENT

This Settlement Agreement is entered into on 01.05.2024

BETWEEN

OMEGA PROMOTERS PRIVATE LIMITED OFFICE AT 38, OMEGA COMMERCIAL COMPLEX, SURVEY NO. 174/175, WAKAD THERGAON ROAD, WAKAD, PUNE 4110057 THROUGH AMAR PAL SINGH AUTHORIZED VIDE BOARD RESOLUTION DATED 10.09.2022 (COPY OF THE SAME IS ANNEXED HEREWITH AS ANNEXURE A) (HEREINAFTER REFERRED TO AS THE "FIRST PARTY")

AND

MR. DARSHAN KULKARNI AND MRS. MADHURI KULKARNI BOTH R/O FLAT NO. L-102, OMEGA PARADISE, L WING, MANDIR ROAD, WAKAD, PUNE 400157 (HEREINAFTER REFERRED TO AS THE "SECOND PARTY") COLLECTIVELY REFERRED TO AS THE "SECOND PARTY")

The expression 'First Party', and the 'Second Party', shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his/her / its / their nominees, administrators, legal heirs, legal representatives, executors, successors and permitted assigns etc.

The First Party, and the Second Party, are hereinafter individually referred to as 'First Party', and the 'Second Party', respectively, and collectively referred to as the 'PARTIES'.

WHEREAS The Hon'ble State Commission vide order dated 11th December, 2018 passed by the Circuit Bench Pune of this Hon'ble Commission in Complaint



Case No. 297 of 2017 directed the First Party to pay interest @ 18% per annum on the amount paid by the complainants from 31.07.2014 till handing over possession of booked flat to the complainants and also directed the opposite party to pay compensation of Rs. 1,00,000/- (Rupees One Lakhs only) to the complainants towards mental pain and agony and amount of Rs. 10,000/- (Rupees Ten Thousand only) towards cost of litigation.

AND WHEREAS Being aggrieved by the said order dated 11.12.20218, the Original First Party preferred Appeal being Appeal no. 48 of 2019 before Hon'ble National Commission.

AND WHEREAS The Hon'ble National Commission vide Order dated 18th October 2022 partly allowed the Appeal No. 48 of 2019 filed by the First Party and thereby modified the rate of interest for delayed possession from 18% per annum to 9% per annum and confirmed the rest of the order passed by State Commission, Maharashtra Mumbai.

AND WHEREAS Being aggrieved by the said order dated 18th October 2022 passed by Hon'ble National Consumer Disputes Redressal Commission, New Delhi, the First Party filed Writ petition (Civil) no. 17651 of 2022 before Hon'ble High Court of Delhi.

AND WHEREAS the suit bearing W.P.(C) 17651 /2022 was referred to Samadhan (Delhi High Court Mediation and Conciliation Centre) vide Order dated 15.12.2023 passed by Hon'ble Mr. Justice Subramonium Prasad appointing Mr. J.P. Sengh, Sr. Adv to act as the Mediator in the matter of Mediation proceedings.

AND WHEREAS comprehensive Mediation Sessions were held between the PARTIES and their respective Counsel and due to the proactive participation of the



Counsel(s) for the PARTIES and the PARTIES have voluntarily arrived at an amicable solution resolving all their disputes and differences, both present and past, by way of the Present Settlement Agreement, terms whereof are detailed hereinbelow:

a) The First Party viz Omega Promoters Private Limited shall pay a total compensation of Rs. 16,20,725/- to the Second Party herein in following instalments:-

1. On or before 10.05.2024, the First party i.e. Omega Promoters Private Limited shall pay an amount of Rs. 6,36,966/- (Rupees Six Lakhs Thirty Six Thousand Nine Hundred and Sixty Six Only) by way of demand draft favoring Second Party hereinabove before the executing court i.e. State Consumer Disputes Redressal Commission Maharashtra, Mumbai

2. The First Party shall issue two post dated cheques dated 10th July 2024 for amount of 6,36,966/- (Rupees Six Lakhs Thirty Six Thousand Nine Hundred and Sixty Six Only) and another cheque dated 31.12.2024 for an amount of Rs. 3,46,793/- (Rupees Three Lakhs Fourty Six Thousand Seven Hundred Ninety Three Only) both drawn on Bank of Maharashtra, Wakad branch favoring the Second Party herein

The cheques and Demand Draft will be issued in the name of Mr. Darshan Kulkarni and that will satisfy the claim of both the constituent of the Second Part.

b) The First Party i.e. Omega Promoters Private Limited and its Directors namely Amar Pal Singh undertakes to this Hon'ble Court to keep sufficient funds available in the banks to honour the cheques and undertake not to close the Bank Account till realisation of the cheques.

c) The First Party undertakes not to call back the



cheques for any reason whatsoever and/or advise the Second Party not to lodge the cheque for encashment for any reason whatsoever.

d) After the settlement is accepted by this Hon'ble Court, the Parties shall on or before 10.05.2024 move the executing court i.e. State Consumer Disputes Redressal Commission, Maharashtra, Mumbai for the purpose of implementation of the present Settlement and signing the consent terms.

e) In the event of Non-Implementation of the Settlement Agreement either in full or part by Omega Builder's Private Limited, the Second Party will be at liberty to approach the State Commission to proceed with the execution and decide the matter within 4 months as per the direction of the National Commission vide its order dated 5.2.2024 in Appeal Execution no. 153 of 2022 and the Hon'ble State Commission shall decide the Execution Application pursuant to the order dated 11.12.2018 duly modified by Hon'ble National Consumer Disputes Redressal Commission, New Delhi vide its order dated 18th October 2022. This is without prejudice to the Second Party to take other action including taking out proceedings for committing contempt of this Hon'ble Court.

f) The Parties shall approach the Hon'ble Court within one week from signing and execution of this Settlement Agreement to seek appropriate orders to dispose of the Writ Petition (Civil) no. 17651 of 2022 in terms of the present Settlement Agreement.

g) On execution of this Settlement Agreement and on fulfilling the respective obligations under this agreement the parties shall not raise any claim, demand against each other in respect of the issue involved in the subject matter of these proceedings.



h) On the realisation of all the cheques, the Second Party undertakes withdraw the above Execution Application and get the matter disposed of as mutually settled.

i) That the parties to the present Agreement undertake to be bound by the terms of the present Agreement and to give full effect to the terms thereof.

j) The Parties hereby give a solemn undertaking that they shall Agreement and shall not do any act of any kind whatsoever which violates the letter and spirit of the present Agreement.

k) That the present Agreement is being entered into by the parties voluntarily and without any coercion, pressure, or undue influence being exercised by anyone, out of their own free will and volition. The parties agree to be bound by the present Agreement for all intents and purposes.”

4. The writ petition is disposed of in terms of the said settlement agreement. Pending applications, if any, also stand disposed of.

5. This Court expresses its gratitude to Mr. J P Sengh, learned Senior Counsel, who has been instrumental in getting the matter settled.

6. The next date already fixed in the matter, i.e. 22.07.2024, stands cancelled.

SUBRAMONIUM PRASAD, J

MAY 8, 2024

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