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

+ **FAO(OS) 129/2017 & CM APPL. 15341/2017**

SURESH KUMAR GUPTA & ANR Appellants

Through: Mr. Sanjeev Saraswat, Advocate with
appellant no.1 (through VC)

versus

**SHRILATA AGARWAL(NOW DECEASED THROUGH HER
LR'S) & ORS.** Respondents

Through: Mr. Sanjiv Bahl, Mr. Eklavya Bahl
and Ms. Apoorva Bahl and Mr. Pawas
Agarwal, Advocates for R-1(a) to (c)
R-1(a) present in person, R-1(b) and
R-1(c) present through VC, R-2
present through VC and R-3 present
in person

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Date of Decision: 01st April, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

**I.A. No. (Application under Order XXIII Rule 3 CPC) and
FAO (OS) 129/2017**

1. Present appeal has been filed challenging the order dated 06th March, 2017 passed by the learned Single Judge in I.A. No. 21558/2015 in CS (OS) 2340/2012 whereby the application for amendment of plaint filed by the Respondent-plaintiff was allowed.



2. The present appeal was referred to the Delhi High Court Mediation and Conciliation Centre. Mediation in the present case has been successful through the efforts of Ms. Veena Ralli, Mediator.
3. A Settlement Agreement has been executed between the parties on 28th March, 2024.
4. It is pertinent to mention that the Supreme Court in *Afcons Infrastructure Ltd. Vs. Cherian Varkey Construction Co. (P) Ltd., (2010) 8 SCC 24* while dealing with Section 89 of the CPC observed that the settlement agreement will have to be placed before the Court for recording it and in disposing of the suit in its terms, the Court should apply the principle of Order XXIII Rule 3 CPC and make a decree in terms of the settlement in regard to the subject matter of the suit, to make such settlement effective.
5. This morning, the parties have also filed an application under Order XXIII Rule 3 CPC. The Registry is directed to number the same.
6. This Court is satisfied that the compromise between the parties contained in the aforesaid Settlement Agreement satisfies the requirements of Order XXIII Rule 3 CPC. The compromise contained in the aforesaid Settlement Agreement is lawful and therefore, this Court does not find any impediment in decreeing the underlying suit in terms of the aforesaid Settlement Agreement.
7. Learned counsel for the Appellant has handed over the manager's cheques in favour of Respondent No. 1(a), 1(b) and 1(c). Learned counsel for the Respondents states that there is a typographical error in the name of the payee in the cheque issued in favour of Respondent No.1(a). Learned counsel for the Appellant assures and undertakes to this Court that the said banker's cheque shall be replaced by tomorrow. Learned counsel for the



Respondents states that Respondents have no objection in the registry returning the original of the documents filed before the learned Single Judge to the learned counsel for the Appellants. The said statements/undertakings given by the learned counsel for the parties are accepted by this Court and the parties are held bound by the same. The interim orders, if any, stands vacated.

8. Consequently, the application under Order XXIII CPC is allowed, the present appeal and the pending application are disposed of and the underlying suit is decreed in terms of the aforesaid Settlement Agreement dated 28th March, 2024 executed between the parties, which is marked as Ex.C-1. The Registry of this Court is directed to prepare a decree sheet in terms thereof.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 1, 2024/msh