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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2071/2021**
SOLARIS REALTECH PVT LTDPetitioner

Through: Mr. Manish Kumar, Advocate.

versus

THE STATE GOVT OF NCT DELHI & ORS. & ORS....Respondents
Through: Mr. Amol Sinha, ASC (Crl.) for the
State with Mr. Kshitiz Garg, Mr.
Ashvini Kumar, Mr. Nitish Dhawan
and Ms. Sanskriti Nimbekar,
Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
14.05.2025

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CRL.M.A. 14870/2025 (for Restoration)

1. Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*), has been filed on behalf of the Petitioner to set-aside the Order dated 05.05.2025 *vide* which the accompanying Petition bearing W.P.(CRL) 2071/2021 was dismissed in default.
2. It is submitted that the learned counsel was under the impression that the matter would come post-lunch and therefore, he was not able to appear when the matter was taken up.
3. For the reasons stated in the Application, the Order dated 05.05.2025



is hereby, set-aside and the accompanying Writ Petition is restored to its original number.

4. The Application is disposed of accordingly.

W.P.(CRL) 2071/2021

5. With the consent of both the parties, the matter is taken up today.

6. Petition under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C. has been filed on behalf of the Petitioner for quashing of the Mediation Order dated 07.06.2019 in the Complaint Case bearing CC No. 22982/2016 and CC No. 22985/2016 under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N.I. Act'*).

7. It is submitted that the Respondent No. 4 Company, DPL Builders Pvt. Ltd. entered into a Collaboration Agreement dated 30.11.2013 with the Petitioner Company. The Respondent Nos. 2 and 3 booked flats in the project DPL Flora Heritage situated at Sector-1, Plot No. 16B, Greater Noida West, Gautam Budh Nagar, Uttar Pradesh *vide* Builder Buyer Agreement dated 15.06.2013. The Respondent Nos. 4 to 6 agreed to deliver the possession to the Respondent Nos. 2 & 3 within 20 months from the date of execution of the Builder Buyer Agreement with unconditional Guarantee that the Respondent No. 4 to 6 shall make the payment by way of cheques to the Respondent Nos. 2 and 3, in case they failed to deliver the flats. The Respondent No. 4 failed to deliver the flats.

8. Consequently, the Respondent Nos. 2 and 3 presented cheques to their Bankers, which got dishonoured on account of 'insufficiency of funds'.

9. In August, 2016, two Complaints under Section 138 N.I. Act were filed by the Respondent Nos. 2 and 3 against the Respondent Nos. 4 to 6. The Respondent Nos. 2 to 6 decided to settle the matter before the



Mediation Centre, Tis Hazari Courts and the learned Metropolitan Magistrate referred the parties to the Mediation Centre. The Mediated Settlement was arrived at *inter se* the parties on 07.06.2019 whereby the Respondent Nos. 4 to 6 undertook to allot/transfer/convey 6,000 square feet of area by way of flat in power B and A in Flora Heritage on plot of the Petitioner Company. The Directors of the Petitioner Company have come to know about the mediated Order dated 07.06.2019 bearing No. 2412/2019 and 2413/2019 in the two Complaint Cases under Section 138 N.I. Act.

10. The Petitioner Company has already filed an Application under Section 340 Cr.P.C. before the learned Metropolitan Magistrate, Tis Hazari. By way of the present Petition, it is sought that this Mediated Order dated 07.06.2019, be set-aside.

11. Learned counsel for the Petitioner, has challenged the impugned Order dated 07.06.2019 on the ground that the Respondent Nos. 5 and 6 had no right title and interest in the Property of the Petitioner Company and had not been authorised to enter into the Settlement. It has not been disclosed by the Respondent Nos. 5 and 6 that they had already transferred the Petitioner Company by way of Business Transfer Agreement dated 09.08.2018, to the new Directors of the Petitioner Company, which is now being run by the two newly inducted Directors, namely, Shri Babloo and Shri Suresh Kumar Singhal since their induction.

12. At the time of compromise, the Respondent No. 4 had no right to enter into the Compromise in respect of the inventories/flat/constructed area of the Petitioner Company. It was not disclosed that the Respondent Nos. 5 and 6 had the sole liability against the Respondent Nos. 2 and 3 and not the Petitioner Company. The Respondent Nos. 2 and 3 were well aware about



the transfer of the Petitioner Company by way of Business Transfer Agreement and they were part of conspiracy with other Respondent Nos. 4 to 6. Pre-planned conspiracy was entered into by the Respondent Nos. 2 to 6 before the Mediation Centre and had given misrepresentations and false statements before the learned Metropolitan Magistrate, Tis Hazari Courts by way of entering into the compromise through Mediation. The Respondent Nos. 5 and 6 did not have any authority to transfer the residential flats to the Respondent Nos. 2 and 3. It is, therefore, submitted that the Mediated Settlement dated 07.06.2019 be set-aside.

13. Submissions heard and the record perused.

14. It is the Mediated Settlement dated 07.06.2019, which has been challenged by way of the Petition merely because the parties had entered into the Settlement in the Mediation Order, it does not give any cause of action to the Petitioner, to challenge the Order; what actually challengeable was it being accepted by the learned Metropolitan Magistrate. However, the Order of the learned Metropolitan Magistrate, is not challenged.

15. In view of the submissions made, the Petition is disposed of with liberty to the Petitioner, to take appropriate remedy, in accordance with law.

NEENA BANSAL KRISHNA, J

MAY 14, 2025/RS