

ORDER

The plaintiff has filed present suit against defendants seeking relief of declarations in respect of Joint Business Development Agreement (JBDA) dtd. 04.03.2021, to direct defendants to pay plaintiff its 60% share of gross sale proceeds of Krishna Residency with interest, to direct defendants to comply clause 8.4 of JBDA, to declare that plaintiff holds valid and subsisting first charge and lien over A and B Schedule Properties and all sale proceeds arising out of it and other subsidiary reliefs in respect of above properties.

IA No.1 is filed by plaintiff under Order XXXIX Rules 1 and 2 R/w Sec.151 of CPC, seeking to grant an exparte, ad-interim temporary injunction restraining the defendants, their agents, servants, employees, or any person claiming through or under them, from selling, alienating, encumbering, or creating any third party rights in respect of any flats constructed on Schedule B Property ("Krishna Residency"), and from receiving, utilizing, or appropriating any sale proceeds arising therefrom without placing the same on record and accounting for such proceeds before this court, pending disposal of the present suit.

IA No.2 is filed by plaintiff under Order XXXVIII Rule 5 R/w Sec.151 of CPC, seeking to pass an order of attachment before judgment in respect of the application schedule property, or in the alternative, direct the defendants to furnish adequate security for

the suit claim.

IA No.3 is filed by plaintiff under section 12A of Commercial Courts Act R/w Sec.151 of CPC, seeking to exempt the compliance of Pre-Institution Mediation in present case in view seeking urgent reliefs.

IA No.4 is filed by plaintiff U/Or.XI Rule 4 and 5 of Commercial Courts Act R/w Sec.151 of CPC seeking to dispense with production of original documents.

In nutshell, it is gist of above applications that, the plaintiff has instituted present suit seeking above reliefs including enforcement of contractual entitlements under Joint Business Development Agreement (JBDA) executed between itself and defendant No.1 represented by its partners defendant Nos.2 and 3. In pursuant to said JBDA, plaintiff undertook complete construction, development, marketing and financial management of two residential projects on schedule A and B of properties by incurring development cost of Rs.27,14,99,016/- and he also discharged financial liabilities taken by defendants amounting to Rs.25,16,73,182/- to ensure successful completion of project. In spite of it, defendants started entering into agreements of sale with third parties and receiving sale advance consideration in respect of flats with B schedule properties without knowledge and participation of plaintiff, in complete contravention of clause 4.3, 5.1, 5.2 and 5.3 of JBDA. Defendants actions are directly undermining plaintiff exclusive

rights to control, manage and market the project and they are threatening financial recovery, lien and contractual entitlements. Hence it is necessary to restrain defendants from alienating the properties as prayed in IA No.2

It is further averred that defendant No.1 is in complete breach of JBDA unilaterally entering into agreement of sale for flats in B schedule property without knowledge of plaintiff. Further defendants have initially appropriated entire revenue by unilaterally executing sale deeds and plaintiff has sufficient reason to believe and apprehend that defendants are executing agreement of sale in respect of flats of above projects and appropriating sale proceeds without intimation, consultation and revenue sharing with plaintiff, in contravention of terms of JBDA. Plaintiff has reasons to believe that consideration amount collected by defendants directly without disclosure and defendants are deliberately dealing with and disposing of suit property to utilize its proceedings to defeat the right of plaintiff. Hence no other mechanism of safeguard is available to ensure preservation of suit property or its proceeds during pendency of present suit except attachment of property mentioned in schedule of IA No.2. Hence it is prayed to pass necessary ad interim orders.

Heard arguments.

In support of present suit the, at this stage

plaintiff has produced copies of Joint Business Development Agreement, expense report, sale deeds, project documents, bank statement, agreement of sale etc. It is specifically averred that, though as per aforesaid JBDA plaintiff undertook complete construction, development, marketing and financial management of two residential projects on schedule A and B of properties by incurring development cost of Rs.27,14,99,016/- and discharged financial liabilities of defendants amounting to Rs.25,16,73,182/- to ensure successful completion of project, defendants are entering into agreements of sale with third parties and receiving sale advance consideration in respect of flats with B schedule properties without knowledge and participation of plaintiff, in complete contravention of clause 4.3, 5.1, 5.2 and 5.3 of JBDA. Hence the plaintiff has made out prima facie case to restrain defendants from further alienating the above properties mentioned in IA No.1 in order to protect the right of plaintiff under aforesaid JBDA.

Further on perusal of the averments of plaint and above applications, it clearly goes to show that, plaintiffs are seeking urgent relief against defendant No.1 and production of original documents and compliance of mandatory procedure of pre-institution mediation U/Sec.12A of Commercial Court Act, would defeat the very purpose of suit. Hence sufficient grounds are made out by plaintiffs to dispense with

production of original documents and compliance of mandatory procedure of per-institution mediation U/Sec.12A of Commercial Court Act, as prayed for in IA Nos.3 and 4.

However, as far as, the reliefs claimed in IA No.2 U/ Or.XXXVIII Rule 5 is concerned, looking to facts and circumstances of present case, it is not just and proper to issue ad-interim exparte order of attachment of application schedule property without hearing otherside. Hence following:-

ORDER

IA No.3 filed by plaintiff U/Sec.12A of Commercial Courts Act, 2015 R/w Sec.151 of CPC is allowed. The pre-institution mediation proceedings as mandated U/Sec.12A of above Act, is dispensed with in this case.

IA No.4 filed by plaintiff U/Or.XI Rule 4 and 5 of Commercial Courts Act R/w. Sec.151 of CPC, is allowed. The production of original documents is dispensed with for time being.

Issue ad-interim temporary injunction restraining the defendants, their agents, servants, employees, or any person claiming through or under them, from selling, alienating,

encumbering, or creating any third party rights in respect of any flats constructed on Schedule B Property (“Krishna Residency”), and from receiving, utilizing, or appropriating any sale proceeds arising therefrom without placing the same on record and accounting for such proceeds before this court, till next date of hearing.

Plaintiff shall comply with provisions of Or.39 Rule 3(A) of CPC and only after such compliance of such provisions, certified copy TI shall be issued to plaintiff.

Issue notice on IA No.1 and 2 and suit summons to all defendants, if PF and copies are furnished, R/by 20.08.2025.

LXXXIV, ACC & SJ, B'LURU.