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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS (COMM) 166/2019, CCP (O) 74/2019, I. A. Nos. 8900/2019,
10609/2020

M/S R K BARARIA Plaintiff

Through: Mr. Sanjay Bansal, Adv.

versus

NANDI INFRATECH PRIVATE LIMITED Defendant

Through: Mr. V.K. Garg, Sr. Adv. with Mr.
Suresh Kumar Sharma, Mr. Bipin
Kumar, Mr. K. S. Rekkhi and Mr.
Parv Garg, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

% **ORDER**
17.01.2023

I.A No. 4623/2019 & 11461/2019

1. Vide order dated 09.04.2019, it was directed as under:

“3. Considering the nature of the disputes between the parties, since the amount claimed by the Contractor is quite substantial and the claim of the Company is primarily for liquidated damages, which are to be established at trial, any transfer of flats made by the Company in Amatra Homes project in Tower Nos. 'A and J' shall be subject to further orders of this court. The Company is free to deal with those flats by informing the proposed buyers of the order of this Court. Let reply to the injunction application be filed, within two weeks and rejoinder, if any, be filed within one week thereafter.”

2. Thereafter, vide order dated 05.07.2019, a proposal was made on



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behalf of the defendant no.1 therein that the said defendant would deposit the sale consideration of 6 flats in the project in question, which would be more than a sum of Rs.5 crores, in order to ensure that the entire project is not stalled and so that the interim order passed on 09.04.2019 does not impede the sale of the flats in the project. Pursuant to the proposal of the defendants, the Court passed the following directions vide order dated 05.07.2019 which reads as under:

“5. Accordingly, it is directed that the sale consideration of the first 6 flats or any other number of flats amounting to a total sum of Rs.5 crores, which are sold by the Company, shall be deposited with the Registrar General of this Court. Subject to the said deposit of Rs. 5 crores, the Company is free to deal with the remaining flats in the said project. The above deposit shall be without prejudice to the rights and contentions of the parties till the time of completion of the joint measurement. The said deposit shall also be without prejudice to the fact that it is the case of the company that upon joint measurement being conducted, it would be evident that the Contractor, in fact, owes money to the Company.”

3. Pursuant to the aforesaid orders, I.A. No. 11461/2019 was filed by the defendant seeking the following:

“A. To modify the order dated 05.07.2019 and pass an order for keeping the 16 flats of total sale value of more than Rs. 5 crores as security till the disposal of application Order 39 Rule 1 and 2 read with Section 151, CPC.”

4. The amount of Rs.5 crores, and/or sale consideration of 6 flats, never came to be deposited by the defendant before this Court.
5. In the circumstances, the directions contained in the order dated 09.04.2019 and the restriction contained therein continues to operate.
6. Learned counsel for the plaintiff submits that conduct of the defendant



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in not depositing the requisite amount in terms of order dated 05.07.2019, amounts to contempt of the directions contained in the said order. Accordingly, CCP (O) 74/2019 has been filed by the plaintiff.

7. The defendant is directed to file an affidavit within a period of four weeks from today, placing on record the details of the flats in *Tower Nos. 'A and J'* of the project in question, which have been sold by the defendant in the aftermath of order dated 09.04.2019 together with the details of the sale consideration realized as a result of the said sale/s. Let the affidavit also disclosing as to whether the conditions mentioned in paragraph 3 of the aforesaid order dated 09.04.2019 have been complied with, qua the sale/s that have been effected. Let the affidavit also disclose the details of the unsold flats in the said Tower 'A' and 'J'.

List on 24.04.2023.

SACHIN DATTA, J

JANUARY 17, 2023/ssc