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

+ **CS(COMM) 281/2020 and CC(COMM) 10/2020**

MS KHURMI ASSOCIATES P LTD Plaintiff

Through: Ms. Roshni Namboodiry, Adv.
(M: 9818332885)

versus

MAHARISHI DAYANAND CO-OPERATIVE GROUP HOUSING SOCIETY Defendant

Through: Mr. Akshit Mago and Mr. Digvijay Singh, Advs. (M: 8587980000)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **22.04.2024**

1. This hearing has been done through hybrid mode.
2. This is a suit filed by the Plaintiff-M/s. Khurmi Associates seeking recovery of Rs. 6,90,66,000/-. The Plaintiff *inter alia*, also seeks injunction against the Defendant from appointing a new architect for construction and development of Plot No. B-4, Vasant Kunj, adjoining Plot Nos. 5 & 6, New Delhi, 110070.
3. In the present case the Plaintiff who is an organisation of architects, engineers and town planners has been engaged by the Defendant who is a co-operative group housing society, vide Agreement dated 14th September, 2009 to develop the aforesaid property.
4. It is the case of the Plaintiff that the Defendant has not paid the outstanding amount of Rs. 6,90,66,000/- with respect to the work done in terms of the contract and the extra work completed, hence the present suit.



5. Admission/denial in this matter is concluded. After hearing the Counsels for the parties, the following issues are being framed in the matter.

“(i) Whether the Defendant has terminated the agreement dated 14th September 2009 illegally? OPP

(ii) Whether the Plaintiff has breached the Agreement dated 14th September 2009? OPD

(iii) Whether the Plaintiff is entitled to be paid an amount of Rs.6,90,66,000/- by the Defendant for the services rendered under the agreement dated 14th September 2009? OPP

(iv) Whether the Plaintiff is entitled to payment of interest pendente lite until the date of the decree? OPP

(v) Whether the Plaintiff is entitled to payment of interest on the decreed amount? If so, at what rate and for what duration? OPP

(vi) Whether the Defendant is entitled to receive refund of an amount of Rs.2,83,10,419/- (Rupees Two Crore Eighty-Three Lakhs Ten Thousand and Four Hundred and Nineteen) towards excess fee wrongfully claimed and paid to the Plaintiff? OPD

(vii) Whether the Defendant is entitled to damages to the tune of Rs.28,38,000/- (Rupees Twenty-Eight Lakhs and Thirty-Eight Thousand) on account of additional cost incurred by the Defendant for construction of lifts? OPD

(viii) Whether the Defendant is entitled to damages to the tune of Rs.10,000 (Ten Thousand) for passing and recommending wrongful RA and PE Bills? OPD

(ix) Whether the Defendant is entitled to pre-suit, pendente-lite, and future interest @18% towards its counter claims? OPD



(x) *Relief & costs. ”*

6. Let the list of witnesses be filed by the parties within four weeks. Plaintiff to lead evidence in affirmative first. Thereafter, cross-examination of Plaintiff's witnesses shall be conducted. The Defendant shall, then, lead its evidence in affirmative *qua* its counterclaim and *qua* the defence in respect of Plaintiff's claims. The Plaintiff shall be given opportunity to lead rebuttal evidence, if so sought.
7. Let the list of witnesses and Plaintiff's evidence be filed before the Joint Registrar.
8. The matter then be listed before the Court to consider as to whether a Local Commissioner is to be appointed for recording of evidence. Parties to seek instructions in this regard.
9. List before the Joint Registrar on 8th July, 2024.
10. List before the Court on 26th July, 2024.

PRATHIBA M. SINGH, J

APRIL 22, 2024/dk/ks