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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 640/2021

KALAKAR PRINTS

.....Plaintiff

Through: Mr. Sahil Chopra and Mr. Ahmed
Anas, Advocates

versus

AFFORDABLE INFRASTRUCTURE AND

HOUSING PROJECTS PVT LTD

.....Defendant

Through: Mr. Sameer Jain, Mr. Himesh Thakur
and Mr. Fazl Agkari, Advocates

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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21.11.2024

I.A. 10074/2024 (under Section 151 CPC filed on behalf of defendant seeking release of the bank guarantees in furtherance of order dated 07.07.2022)

1. Mr. Sameer Jain, the learned counsel for the defendant/applicant submits that the defendant was asked by this Court vide order dated 10.12.2021 to furnish a bank guarantee of Rs. 2,10,00,000/- to secure the interest of the plaintiff. However, vide order dated 14.02.2022, the said amount of bank guarantee was reduced to Rs. 1,68,00,000/-.

2. It is pointed out that subsequently vide order dated 07.07.2022, the defendant was allowed to furnish the security in the form of properties in lieu of the bank guarantee furnished by the defendant. Accordingly, the defendant had offered following three properties as securities:

- a. "a. Unit No. 420, Fourth Floor, admeasuring 352 sq. ft. in 'Silverton Towers', Sector 50, Gurugram Haryana;
(Property No. 1)



- b. Unit No. 421, Fourth Floor, admeasuring 341 sq. ft. in 'Silverton Towers', Sector 50, Gurugram Haryana;
(Property No. 2)
- c. A-306, Third Floor, Block A, admeasuring 913 sq. ft. in 'Space Business Park', Sector 66, Gurugram Haryana.”
(Property No. 3)

3. He submits that the valuation of the said properties was also furnished by the defendant, however, the valuation of property no.3 was disputed by the learned counsel for the plaintiff.

4. This Court *vide* order dated 08.10.2024 had recorded the submission of learned counsel for the plaintiff that the valuation of property no.3, which was bone of contention, will be furnished by the plaintiff itself.

5. Mr. Sahil Chopra, the learned counsel for the plaintiff submits that the plaintiff has got the said property valued which comes to Rs. 91 lakhs, therefore, there is a differential of Rs. 33 lakhs for which the defendant must furnish a bank guarantee.

6. Mr. Sameer Jain, on instructions from the applicant/defendant, submits that defendant is ready to furnish the bank guarantee of the differential amount of Rs. 33 lakhs provided the second bank guarantee for an amount of Rs. 99 lakhs is also released. He further submits that the first bank guarantee which was directed by this Court to be released *vide* order dated 08.10.2024 has not been fully released. It is only the extended bank guarantee which has been released.

7. Learned counsel for the plaintiff submits that the plaintiff has no objection to the release of aforesaid Bank Guarantees provided the learned counsel for the plaintiff make a statement to furnish the bank guarantee of



differential amount of Rs. 33 lakhs within a period of three weeks.

8. In view of the above, learned counsel for the defendant, on instructions, states that the bank guarantee for differential amount of Rs. 33 lakhs will be furnished within three weeks from the release of the above bank guarantees to the defendant. The statement is taken on record.

9. In view of the above, the Registry is directed to release the following bank guarantees to the defendant expeditiously in accordance with the rules:

- i. Bank Guarantee No. 0230220000000658 for Rs. 99,00,000/-
- ii. Original Bank Guarantee No. 0230220000000672 for Rs.69,00,000/- (extended Bank Guarantee already released).

10. With the aforesaid directions, the application stands disposed of.

O.A. 115/2023 (against the order dated 05.10.2023 passed the learned Joint Registrar)

11. Learned counsel appearing on behalf of the defendant/applicant submits that two affidavits of admission/denial were filed by the defendant and the Joint Registrar *vide* impugned order dated 05.10.2023 had observed that fresh affidavit of admission/denial cannot be permitted.

12. Learned counsel appearing for the plaintiff submits that he has no objection in case both the affidavits of the defendant are taken on record provided plaintiff is afforded an opportunity to cross-examine defendant's witnesses on both the affidavits.

13. Learned counsel for the defendant, on instructions from the defendant, submits that he has no objection in case the plaintiff is permitted to cross-examine the defendant's witnesses on both the affidavits of admission/denial filed by the plaintiff. Ordered accordingly.

14. O.A. stands disposed of.



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15. On the basis of pleadings, the following issues are framed:-
- (i) Whether the plaintiff is entitled to a decree of Rs.2,98,41,998/- against the defendant? OPP
 - (ii) Whether the plaintiff is entitled to grant of *pendent lite* and future interest @ 12% p.a. till the actual realisation? OPP
 - (iii) Whether the plaintiff is entitled to cost of the present suit? OPP
 - (iv) Whether the MOU dated 27.02.2020 executed between plaintiff and defendant was not binding and therefore cannot be enforced? OPD
 - (v) Whether the possession of the demised premises i.e. Plot No. 229, Udyog Vihar, Phase-I, Gurugram, Haryana was always with the plaintiff and the same was not handed over to the defendant? OPD
 - (vi) Relief.
16. No other issues arise or pressed by the parties.
17. Let the parties file list of witnesses within a period of 15 days.
18. An affidavit by way of examination-in-chief be filed by the plaintiff within a period of four weeks from the date of filing of list of witnesses.
19. List before the learned Joint Registrar for fixing the date of plaintiff's evidence on 17.01.2025.

VIKAS MAHAJAN, J

NOVEMBER 21, 2024

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