

Xxxix Rule 1 And 2 Cpc) 166) Vaibhav ... vs M/S Blue Coast Infrastructure ... on 4 January, 2021

Author: Mukta Gupta

Bench: Mukta Gupta

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 176/2015

I.A. 11885/2019 (under Order XXXVIII Rule 5 CPC and Order XXXIX Rule 1 and 2 CPC)

I.A. 13798/2019 (under Order I Rule 10 CPC-by defendant No.10)

I.A. 16317/2019 (under Section 151 CPC-by plaintiff Nos.164, 165, 166)

I.A. 16318/2019 (under Section 151 CPC-by Arun Loomba and Vaibhav Loomba)

I.A. 17564/2019 (under Section 151 CPC-by defendant No.2)

I.A. 17566/2019 (under Section 151 CPC-by defendant No.1)

I.A. 17570/2019 (under Section 151 CPC-by Budh Singh Sidhu)

I.A. 18390/2019 (under Section 151 CPC-by Serenity Real Estate Pvt. Ltd.)

I.A.934/2020 (under Section 151 CPC-by defendant No.1)

I.A.935/2020 (delay in filing reply to IA 11885/2019-by defendant No.10)

I.A.936/2020 delay in filing reply to IA 11885/2019-by defendant No.1)

I.A. 2088/2020(under Section 151 CPC-by plaintiff No.212)

I.A. 2089/2020 (under Section 151 CPC-by plaintiff No.211)

KAMAL SHARMA & ORS.

..... Plaintiff

Represented by:

Mr. T.K. Ganju, Senior Advocate
with Mr. Aquib Ali, Advocate.
Mr. Mayank Grover, Advocate for
P-5.
Mr. Ajay Kohli, Advocate with
Mr. S. S. Sobti, Mr. Raghav
Marwaha, Ms. Priyanka Ghorawat,
Ms. Kirti Mewar, & Mr. Shrivalli
Kajaria, Advocates for P-21 & P-22.
Mr. Abhay Chandra/P-215 in person.

versus

M/S BLUE COAST INFRASTRUCTURE

CS(OS) 176/2015

Signature Not Verified
Digitally Signed By:JUST
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Signing Date:04.01.2021
16:52:00

DEVELOPMENT PVT. LTD & ORS. Defendant

Represented by: Mr. Sandeep Sethi, Senior Advocate
with Mr. Naman Joshi, Advocate for
D-1 to D-3.
Mr. Vijay Aggarwal, Advocate for
D-4 to D-8.
Mr. Vivek Malik, Advocate.
Mr. Sundeep Sehgal, Advocate
Mr. Chetan Lokur, Advocate with
Mr. Nitish Chaudhary, Advocate for
Investors/ MS Dhoni, Suresh Raina,
M/s. Rhiti Sports.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 04.01.2021 The hearing has been conducted through Video Conferencing. CS(OS) 176/2015 I.A. 17564/2019 (under Section 151 CPC-by defendant No.2 for disbursal of the amount of approximately 54 crores) I.A. 17566/2019 (under Section 151 CPC-by defendant No.1)

1. I.A.17566/2019 has been filed by the defendant No.1 challenging the maintainability of the suit claiming that the prayers as made in the suit are not maintainable especially when rendition of accounts is sought by the plaintiffs in representative capacity, no recovery of amount can be granted, the court fee in the suit for recovery being different than the court fee as paid by the plaintiffs and that the suit is not maintainable in representative capacity also because each plaintiff has a different cause of action for the reason Agreements between the parties are different and amounts due are also different.

2. By I.A. No.17564/2019 defendant No.2 seeks disbursal of CS(OS) 176/2015 PageGUPTA approximately 54 crores deposited by DIAL before this Court pursuant to the dues towards defendant No.2 in a settlement arrived at before this Court in FAO (Comm.) 116/2019 under Section 37 of the Arbitration & Conciliation Act, be disbursed only as per the chart mentioned in the application so as to satisfy the claims of the parties in whose favour decrees have been passed by the Competent Courts or the orders having been passed by the Competent Court in the prosecution under Section 138 of the Negotiable Instruments Act.

3. According to Mr. Sandeep Sethi, learned Senior Counsel even though defendant No.1 and defendant No.2 have not filed their written statements, the objections being legal, will have to be decided and also the claims of the plaintiffs in whose favour a decree or an order of the Court has been passed would be on a higher pedestal than the claims of the plaintiffs in the present suit in whose favour decree is yet to be passed by this Court after adjudicating the merits of their claims even in the absence of written statements by defendant Nos.1 and 2.

4. Since the maintainability of the suit and the manner of disbursal de- horse the order dated 3rd October, 2018, which was a consent order, is challenged by these applications, before any orders are passed in respective applications and Contempt Petitions filed by the individuals plaintiffs, these applications will have to be decided.

5. List the suit and these two applications for hearing on 24 th February, 2021.

6. In the meantime, the plaintiffs and defendant Nos.1 and 2 will file their respective written submissions in this Court. I.A. 7174/2020 (release of payment of 12.90 lakhs to applicant-Abhay CS(OS) 176/2015 PageGUPTA Chandra/applicant)

1. By this application the applicant Abhay Chandra, who is mentioned at Serial No.215 of the list of Unit Holders in the order dated 3 rd October, 2018, seeks disbursement of the sum of 12.90 lakhs in his favour pursuant to the consent order dated 3rd October, 2018.

2. Learned counsel for the defendant No.2 on instructions states that the cheque in favour of Mr. Abhay Chandra has been prepared, however, he had not collected the said cheque and thus the same would be lying with the Registry.

3. Learned Senior Counsel for the plaintiffs also has no objection to the release of the amount in favour of Mr. Abhay Chandra.

4. Consequently, Registry is directed to release the amount of 12.90 lakhs to Mr. Abhay Chandra along with interest on the said amount which is still lying deposited in the Bank, pursuant to the consent order dated 3 rd October, 2018.

5. Application is disposed of.

CCP(O) 45/2020 I.A.10503/2020 (exemption) CCP(O) 46/2020 I.A.10506/2020 (exemption) CCP(O) 47/2020 I.A.10507/2020 (exemption) CCP(O) 48/2020 I.A.10511/2020 (exemption) CCP(O)50/2020 I.A.10535/2020 (exemption) CCP (O) 55/2020 I.A.11788/2020 (exemption) CCP(O) 58/2020 I.A.12346/2020 (exemption) CS(OS) 176/2015 PageGUPTA CCP(O) 59/2020 I.A.12347/2020 (exemption) CCP(O) 60/2020 I.A.12348/2020 (exemption) CCP(O) 61/2020 I.A.12349/2020 (exemption) CCP(O) 62/2020 I.A.12350/2020 (exemption) CCP(O) 63/2020 I.A.12351/2020 (exemption) CCP(O) 65/2020 I.A.12429/2020 (exemption) CCP(O) 66/2020 I.A.12430/2020 (exemption) CCP(O) 67/2020 I.A.12431/2020 (exemption) CCP(O) 68/2020 I.A.12432/2020 (exemption) CCP(O) 69/2020 I.A.12433/2020 (exemption) CCP(O) 70/2020 I.A.12434/2020 (exemption) CCP(O) 71/2020 I.A.12435/2020 (exemption) CCP(O) 72/2020 I.A.12436/2020 (exemption) CCP(O) 73/2020 I.A.12437/2020 (exemption) CCP(O) 74/2020 I.A.12438/2020 (exemption)

1. Renotify on 24th February, 2021.

2. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JANUARY 04, 2021/vk

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