

IN THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Revisional Jurisdiction)

SINGLE BENCH: BHASKAR RAJ PRADHAN, JUDGE.

C.R.P No. 03 of 2017

Smt. Asha Rani Oberoi,
W/o Shri Sarvjit Singh,
R/o 11-9-40, Natraj Towers,
Dasapalla Hills, VIZAG – 530 003,
Andhra Pradesh.

.... Petitioner.

Versus

1. Shri Ashwin Oberoi,
S/o Late Tirtha Ram Oberoi,
R/o Oberoi Building,
M.G. Marg, Gangtok,
East Sikkim.
2. Shri Arun Oberoi,
S/o Late Tirtha Ram Oberoi,
R/o Oberoi Building,
M.G. Marg, Gangtok,
East Sikkim.
3. Shri Ashok Oberoi,
S/o Late Tirtha Ram Oberoi,
R/o Oberoi Building,
M.G. Marg, Gangtok,
East Sikkim.
4. Shri Anil Oberoi,
S/o Late Tirtha Ram Oberoi,
R/o Oberoi Building,
M.G. Marg, Gangtok,
East Sikkim.
5. The District Collector,
District Collectorate, East,
Government of Sikkim,
Gangtok.

.... Respondents.

**An application under Section 115 of
the Code of Civil Procedure, 1908.**

Appearance:

Mr. S.S Hamal, Advocate for the Petitioner.

Mr. Udai P. Sharma, and Mr. Anup Gurung, Advocates for the Respondent No. 1 and 4.

Mr. S.K Chhetri, Asst. Govt. Advocate for the Respondent No. 5

O R A L J U D G M E N T
(05.10.2017)

Bhaskar Raj Pradhan, J.

Blood is obviously thicker than water. A wound, which had just about started due to the litigation, was quickly attended to and has not been allowed to fester between siblings. On a suggestion made by this Court the learned Counsel appearing for the parties on specific instruction of the litigants before this Court agreed to settle their disputes amicably through the process of mediation and accordingly on 29.08.2017 the present CRP 03/2017 was referred for mediation.

2. The Sikkim State Legal Services Authority vide a communication bearing Ref. No. 1033/SLSA/02/MC dated 25.09.2017 has submitted a report to this Court stating that the case was amicably settled before the Mediation Centre, East Sikkim at Gangtok and has also forwarded the case records along with the Deed of Compromise dated 21.09.2017, recording the settlement arrived at between the contesting parties to C.R.P No. 03/2017 all blood sister and brothers except Respondent no. 5.

3. The Deed of Compromise is quoted herein below:-

"DEED OF COMPROMISE

*This Deed of Compromise is made on this 21st day of September, 2017, between Smt. **Asha Rani Oberoi**, wife of Shri. Sarbajeet Singh, Resident of 11-9-40, Natraj Tower Dasapalla Hills, Vizag-530003, Andhra Pradesh presently camped at Gangtok, hereinafter referred to as the **Plaintiff/First Party**, (which means and includes her legal heirs, successors, representatives, assigns, unless repugnant to this deed) on the **FIRST PART***

AND

- 1. Shri Ashwin Oberoi**
- 2. Shri Arun Oberoi**
- 3. Shri Ashok Oberoi**
- 4. Shri Anil Oberoi**

*All sons of late Tirtha Ram Oberoi, and resident of Oberoi Building, M.G. Marg, Gangtok, East Sikkim hereinafter referred to as the **Defendants/Second Party**, (which means and includes all their legal heirs, successors, representatives, assigns, unless repugnant to this deed) on the **SECOND PART**.*

WHEREAS, the First Party and the Second Party are involved in a litigation. The First Party has filed a Title Suit No. 11 of 2014 (Asha Rani Oberoi Vs. Ashwin Oberoi & four Others.) before the Court of Civil Judge, Junior Division, East Sikkim at Gangtok against her own brothers the second party/defendants.

AND WHEREAS, the Learned Civil Judge, Junior Division, East Sikkim passed on order dated 15.12.2016, disposing off the Title Suit No. 11 of 2014 on a technical ground allowing the preliminary objection of the defendants.

AND WHEREAS, the First Party filed a Civil Revision Petition No. 03 of 2017 (Smt. Asha Rani Oberoi Vs. Shri Ashwin Oberoi & four Others) before the Hon'ble High Court of Sikkim assailing the Order of the Ld. Trial Court dated 15.12.2016 passed in Title Suit No. 11 of 2014.

AND WHEREAS, the litigation being amongst the blood sister and brothers, the Hon'ble High Court was of the opinion that this matter can be settled amicably between the said parties.

AND WHEREAS, the Parties to this litigation also desired to have this matter settled by a Mediator.

AND WHEREAS, vide Order dated 29.08.2017 in Civil Revision Petition No. 03 of 2017 passed by the Hon'ble High Court of Sikkim, the matter was referred for Mediation to the Mediation Centre at Gangtok.

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AND WHEREAS, the Mediation Centre,/Legal Service Authority, Gangtok, appointed Shri N. Rai, Sr. Advocate as the Mediator to mediate this matter.

AND WHEREAS, on formal notice the Parties appeared at Mediation Hall, ADR Centre, District Court Complex, Gangtok, East Sikkim on 15.09.2017.

AND WHEREAS, with the help of Shri S.S. Hamal, Ms. Priyanka Chhetri and Ms. Sushma Lepcha, Advocate for the First Party and Shri U.P Sharma, Advocate for Defendant No. 1 and 04 and Respondent No. 01 and 04d the concerned parties. An introduction and preliminary deliberation took place on the first sitting and the issue of settlement was narrowing down, 21.09.2017 was fixed for the second deliberation and discussion.

AND WHEREAS, today i.e. on 21.09.2017, the respective parties and their Ld. Counsels appeared with very open mind and suggestions and effective deliberation and discussions was initiated. After joint and private caucuses by the Mediator and also the direct deliberations between the contesting parties and their counsels present and also the positive suggestion which came from the parties, the Parties ultimately agreed to settle this matter amicably on the following terms and conditions:-

1. That the Second Party No. 1 Shri Ashwin Oberoi, who is in occupation of the portions of the building (i.e. the second floor of the building) for which the First Party has her claim agreed to pay the First Party a sum of Rs. 20,000/- (Rupees Twenty Thousand only) per month for final settlement of the claim of the First Party. The money shall be deposited in the savings account of the First Party maintained with Axis Bank, Vishakapatnam.
2. That the Second Party No. 01 shall enhance the present agreed amount of Rs. 20,000/- (Rupees twenty thousand) only proportionately as and when he enhances the house rent from his tenants. The First Party shall not claim the money to be paid by Second Party No. 1 as and when the premises remains vacant on want of tenancy.
3. That the Second Party No. 01 shall pay the above mentioned amount (original or enhanced) house rent for the lifetime of the First Party. The Second Party No. 01 shall automatically stop the payment in case of the death of the First Party.
4. That in case of the death of the Second Party No. 01, prior to the death of the First Party, his legal heirs and successors shall pay the First Party 50% of the actual amount being paid by Second Party No. 01 to the First Party on the date of his death.

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5. That the First Party shall not make any other claim in future in terms of the present litigation, which will be disposed off as compromised.

6. That the Second Party No. 02 to 04 and the Respondent No. 05 shall not have any objections to the above mentioned terms and conditions of this Deed of Compromise.

7. That the Parties shall request the Hon'ble High Court for disposing off the Civil Revision Petition No. 03 of 2017 (Smt. Asha Rani Oberoi Vs. Shri Ashwin Oberoi & 04 Others) making this Deed of Compromise a part of the Order of disposal.

In witness whereof this Deed of Compromise is made on the date hereinabove first mentioned. The Parties put their respective hands on this Deed of Compromise at the mediation Hall, ADR Centre, District Court Complex, Gangtok, East Sikkim.

Witnesses.

1. signature.

Sd/-
First Party.

2. signature.

Sd/-
Second Party.

Sd/-
Third Party.

Sd/-
Fourth Party.

Sd/-
Fifth Party."

4. The said Deed of Compromise has been duly signed by all the contesting parties duly attested by the two witnesses except the State Respondent.

5. The learned counsels appearing for the respective parties to the present dispute states and submits that in view of the compromise entered nothing further survives in the present CRP No. 03/2017. The Deed of Compromise dated 25.09.2017 is taken on record and is made part of the judgment. In terms of the said Compromise Deed a decree may be drawn up.

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6. It is indeed heartening to note that the contesting parties, all siblings, with the active involvement of their learned counsels have arrived at an amicable settlement of their disputes.

7. This Court records its appreciation of the positiveness of the contesting parties hereto to settle the matter amicably, the efforts of the learned Counsels for the respective parties to assist in the settlement arrived at and of the Mediator, Mr. N. Rai, Senior Advocate who has successfully facilitated the parties to reach a common agreement for the resolution of their disputes.

8. The parties to bear their own costs.

Sd/-
(Bhaskar Raj Pradhan)
Judge
05-10-2017

Approved for reporting: yes.

Internet: yes.

Avi/