

CS - 2657/07-08

BCE - 1841/08-09

Sanudh

BNG(U)-VRT 1841 2008-2009 / 1-20

BEFORE THE ARBITRAL TRIBUNAL CONSISTING OF

JUSTICE MR. M. RAMAKRISHNA, RETD. CHIEF JUSTICE HIGH COURT OF JAMMU AND KASHMIR/ SOLE ARBITRATOR

BETWEEN

SURUCHI PROPERTIES PVT. LTD.

A Company registered under the provisions of the Companies Act, having its Regd. Office at No. 7, Chittaranjan Avenue, KOLKATA - 700 072 Having its Branch Office At No. 100, K.H. Road, BANGALORE - 560 027. Herewith represented by its Authorised Signatory Mr. Ashwin Sancheti

.. CLAIMANT

AND

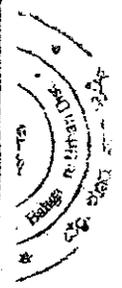
1. The Medical Relief Society Of South Canara (Manipal) Manipal Hospital, Airport Road, BANGALORE
2. Mr. P. Dayanand Pai, S/o late P. Narasimha Pai, Having its office At No. 10/1, Ground Floor, Lakshminarayana Complex, Palace Road, BANGALORE - 560 001

.. RESPONDENTS.

AWARD

1. This is a Claim Petition filed by the Claimant seeking for Specific Performance against the Respondent. I have been appointed as Arbitrator by consent of both the parties. I have accepted and entered reference of Arbitration.
2. The Claimant has filed its Claim Statement, separate Objections have been filed by the Respondents. The Claimant has subsequently filed a Rejoinder to

R. Rama Krishna



ಕೃಷಿ ಸಂಖ್ಯೆ P-2657 ¹⁸⁴¹ 08-09 BNG(U)-VRT 1841 2008-2009 | 2-20

ಸರ್ಕಾರಿ ರಜಾದಿ ವೇತನದ ಕಡತದ ದಿನಾಂಕ 14-03-2008 ರಂದು 12:47:56 PM ಗಂಟೆಗೆ ಈ ಕೆಳಗೆ ವಿವರಿಸಿದ ಶುಲ್ಕದೊಂದಿಗೆ

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1	ನೋಂದಣಿ ಶುಲ್ಕ	2212240.00
2	ಸೇವಾ ಶುಲ್ಕ	600.00
	ಒಟ್ಟು :	2212840.00

ಶ್ರೀ Justice Mr. M. Ramakrishna, RETD, Chief Justice High Court of Jammu and Kashmir/Sole Arbitrator & Sole
ಹಾಜರ ಮಾಡಲ್ಪಟ್ಟಿದೆ

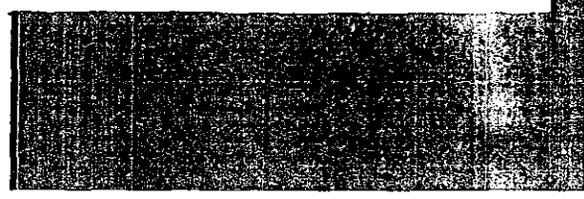
ಹೆಸರು	ಫೋಟೋ	ಹೆಚ್ಚುವರಿ ಗುರುತು	ಸಹಿ
ಶ್ರೀ Justice Mr. M. Ramakrishna, RETD, Chief Justice High Court of Jammu and Kashmir/Sole Arbitrator			

ಬರೆದುಕೊಟ್ಟಿದ್ದಾಗಿ ಒಪ್ಪಿರುತ್ತಾರೆ

ಹಿರಿಯ ಉಪನೋಂದಣಿ ಅಧಿಕಾರಿ
ವರ್ತಮಾನ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ.

ಕ್ರಮ ಸಂಖ್ಯೆ	ಹೆಸರು	ಫೋಟೋ	ಹೆಚ್ಚುವರಿ ಗುರುತು	ಸಹಿ
1	Justice Mr. M. Ramakrishna, RETD, Chief Justice High Court of Jammu and Kashmir/Sole Arbitrator Between. (Suruchi Properties Pvt. Ltd., Rep by Its Authorised Signatory Ashwin Sancheff) (Claimant) (ಬರೆದುಕೊಂಡವರು)			
2	Justice Mr. M. Ramakrishna, RETD, Chief Justice High Court of Jammu and Kashmir/Sole Arbitrator And (The Medical Relief Society of South Canara (Manipal) Manipal Hospital, Airport Road, Bangalore) (Respondent No 1) (ಬರೆದುಕೊಂಡವರು)			

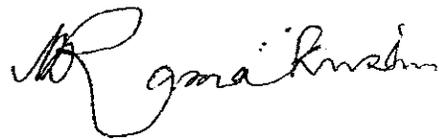
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ವರ್ತಮಾನ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ.



both the Statement of Objections. Since the entire matter is on the basis of documents executed between the parties and correspondence exchanged between the parties which documents and correspondences are undisputed. The parties at the hearing held on 24.1.2007 have submitted that they have no oral evidence in the matter. In view of the submissions made by the learned counsel that they have no evidence to lead on the point of dispute between the parties and that the matter may be decided by the Arbitrator on the available documents and legal position, there was no requirement to record Oral Evidence.

3. The matter was posted and was heard on 4.3.2007, 25.03.2007, 30.6.2007, 24.06.2007, 22.7.2007 and 15.8.2007 when all the Counsels addressed arguments in detail. The Tribunal has formulated the points for determination in the sitting held on 21.1.2007. In view of the admitted documents and correspondence, the point of dispute is very much narrowed down. Hence it is not necessary to consider all the pleadings in detail. I will refer to the pleadings briefly only to come to a finding on the dispute.

4. The Claimant is a Company incorporated under the provisions the Companies Act 1956 and has its Registered Office at Kolkata and branch office at Bangalore. The Claimant is a builder and Developer. The Claimant contends that the 1st Respondent agreed to sell the Claim Schedule Property to the 2nd Respondent under an Agreement of Sale dated 9.3.2004 in furtherance of which the 2nd Respondent has executed a Nomination Agreement in favour of the Claimant herein on 03.05.2004 nominating the Claimant to take sale of the properties. There were certain litigations and or encumbrances over portions



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3	Justice Mr. M. Ramakrishna. RETD. Chief Justice High Court of Jammu and Kashmir/Sole Arbitrator And (P. Dayanand Pal S/o Late P. Narasimha Pal (Respondent No 2) (ಅಧಿಕಾರವಹಾರ)			

ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಿಗೆ
ವಕೀಲರು, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ

BNG(U)-VRT 1841 2008-2009 / 4-20

**GOVERNMENT OF KARNATAKA
DEPARTMENT OF STAMPS AND REGISTRATION**

No:DRU/DUS/V/ 3 /2007 - 08

DATED:01.08.2008

CERTIFICATE U/S. 41 OF THE KARNATAKA STAMP ACT 1957

" Certified that a sum of Rs.77,42,840/-(Rs.Seventy Seven Lakhs Forty Two Thousand Eight Hundred and Fourty only) being the proper stamp duty and fine of Rs.5/-(Rupees Five only),totally Rs.77,42,845/-(Rs. Seventy Seven Lakhs Forty Two Thousand Eight Hundred and Fourty Five only)has been paid by M/s.SURUCHI PROPERTIES PVT.LTD.,branch office at No:100,K.H.Road, Bangalore-560 027, rep.by Mr.Ashwin Sancheti,vide DD No:068275 Dated: 01/08/08, drawn on VIJAYA BANK,Residency Road Branch,Bangalore.



(NAYAZ/AHMED)

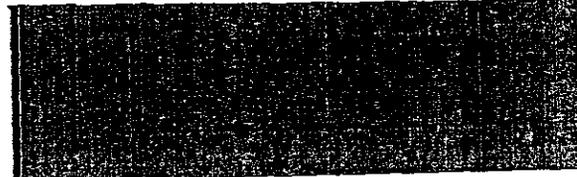
No:DRU/DUS/V/ 3 /2007 - 08

DATED:01.08.2008

CERTIFICATE U/S. 32 OF THE KARNATAKA STAMP ACT 1957.

"Certified that this document is duly stamped"

Deputy Commissioner of Stamps
Shivajinagar Regn. Dist., Bangalore



of the Claim Petition Schedule properties, it was the obligation of the 2nd Respondent to clear these litigations and or encumbrance and to make available to the Claimant the property free from all encumbrance and litigations towards which the Claimant was to make payment of Rs. 3,50,00,000 in addition to the sale consideration. The Claimant contends that the Claimant has made payment of a sum of more than Rs.4,67,45,099/- either directly to the 2nd Respondent or to the various persons who had alleged claims over portions of the Claim Schedule Property and or to the statutory authorities, which amount is more than the amount due to be paid by the Claimant as regards the settlement of disputes and clearance of litigations/encumbrances. During the Arguments the Claimant's Counsel has stated that since these additional amounts were already paid the same would be adjusted from the sale consideration payable, at this juncture I pointed out to the Claimant Counsel that irrespective of the amounts paid towards settlement of disputes the consideration liable to be paid to the 1st respondent would remain the same and no adjustment could be made from and out of the consideration payable to the 1st respondent. The Claimant Counsel after conferring with the representative of the Claimant has submitted that since these amounts were incurred for clearance of encumbrances and litigations, they would not adjust these amounts and would pay the balance due to the 1st Respondent as per the Nomination Agreement which it has always been in a position to pay. The Claimant claims that the Claimant is ready and willing to complete the contract and the Respondents have delayed the matter more particularly the 2nd Respondent has not performed his obligations even though the representatives of the Claimant and the 1st Respondent were present in the Office of the Sub-Registrar's Office, Bangalore South Taluk on 24.3.2006 for

Rama Krishna

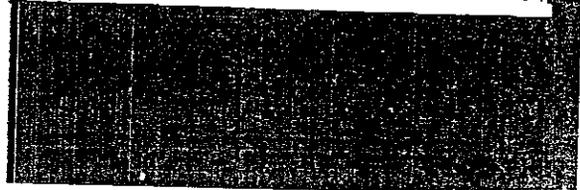
ಕ್ರಮ ಸಂಖ್ಯೆ	ಹೆಸರು ಮತ್ತು ವಿಳಾಸ	ಮತೆ
1	M.D.Mahesh # 100, KH Road, Bangalore	Mahesh
2	Babu Shivajinagar, Bangalore	Babu


 ಹಿರಿಯ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ
 ವರ್ತಮಾನ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ.

Kept Pending for Undervaluation U/S 45 of KS ACT-1957

Designed and Developed by C-DAC, ACTS, Pune


 ಹಿರಿಯ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ
 ವರ್ತಮಾನ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ.



registration of the Sale Deed which had been approved by both the Respondents. It appears that on default of the 2nd Respondent, the 1st Respondent has on 27-03-2006 terminated the Agreement for Sale dated 9.3.2004. The Claimant has challenged the unilateral termination and has sought for Specific Performance of the Agreement for Sale dated 9.3.2004 read with Nomination Agreement dated 03-05-2004.

5. The Respondents in their defence have admitted the Agreement for Sale and the Nomination Agreement. The 1st Respondent has pleaded that the 1st Respondent has not defaulted. The defaults are on part of the 2nd Respondent. The 1st Respondent was ready and willing to convey the property to the Claimant and kept its representative present in the office of the Sub-Registrar on 24.3.2006, when the 2nd Respondent absented himself, which lead to termination of the agreement. The dispute is essentially being between the Claimant and the 2nd Respondent as regards the resolution of certain litigations/encumbrances on the Claim Schedule Property. The claim if any of the Claimant could only be against the 2nd Respondent and not as regards the Claim Schedule Property, since the agreement has been terminated in a valid manner.

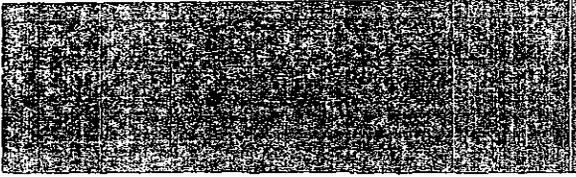
6. The 1st Respondent further claims that time was essence of the contract and having defaulted in the performance of the obligations within the time period prescribed i.e. 9.3.2006 or within the extended time of 24.3.2006, the Claimant and 2nd Respondent cannot seek to take advantage of their own wrongs and the Claimant cannot seek for specific performance of an

R. G. K. K. K.

agreement which has been validly terminated, and there is nothing for the 1st Respondent to perform.

7. The 2nd Respondent has also filed its objection whereunder the 2nd Respondent claims that the unreasonable demand of the Claimant to clear all encumbrances and litigations before the execution of the Sale Deed, led to a dispute due to which the Agreement came to be terminated by the 1st Respondent.
8. The 2nd Respondent contended that he was also ready and willing to execute the Sale Deed in favour of the Claimant but it is only due to the insistence of execution of the Supplemental Agreement by the Claimant that the transaction could not be completed.
9. The 2nd Respondent has further contended that in the interregnum period the 2nd Respondent has settled much of the litigation and encumbrance and only certain payments have to be made by the 2nd Respondent which payments can be made by utilizing the payments to be made by the Claimants.
10. Thereafter the Claimant has filed a common rejoinder to the Objections filed by the Respondents contending that if the Respondent has indeed settled all the litigations and removed the encumbrances, Sale Deed could be executed immediately thus avoiding any further delays. The claimant has categorically stated that the payments would be made by the 2nd Respondent immediately.

R. G. Krishna



BNG(U)-VRT 1841-2008-2009 / 10-20

Document is ordered for Registration as per the Order Dated 29/06/08 Passed in Case No-DUS-V-3/07-08
the Deputy Commissioner of Stamps and District Registrar, Shivajinagar, Bangalore

ಹಿರಿಯ ಉಪನಿರ್ದೇಶಕರು
ಪತ್ರಕರ್ಮ, ಬೆಂಗಳೂರು ನಗರ



1 ನೇ ಪುಸ್ತಕ ದಾಖಲೆ
ನಂಬರ್ VRT-1-01641-2008-09 ಅಗೆ
ಸಿ.ಡಿ. ನಂಬರ್ VRTD31 ನೇ ದೃಶ್ಯ
ದಿನಾಂಕ 08-08-2008 ರಂದು ಸೀಂಟರಾಯಿಸಲಾಗಿದೆ

(ಜಾನಾ *[Signature]*)
ಹಿರಿಯ ಉಪನಿರ್ದೇಶಕರು
ಪತ್ರಕರ್ಮ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ



11. In the above circumstance the short point which arises for consideration is as to:

Whether the Claimant is entitled for specific performance of Agreement for Sale dated 9.3.2004 read with Nomination Agreement dated 03.05.2004? If so, on what terms.

12. The 1st Respondent during the course of oral arguments has relied on the decision reported in AIR 1997 Karnataka 14 to say that when time was essence of contract violation by one party would disentitle that party from claiming specific performance.

13. Relying on AIR 2004 Punjab and Haryana 295 the 1st Respondent contended that there was a express clause in the Agreement stipulating that time was essence of the agreement, failure thereof to pay within the stipulated period, it cannot be said that the Purchaser was ready and willing to perform his part of obligation.

14. For similar purposes the 1st Respondent has relied on the decisions reported in AIR 2003 AP 430, AIR 1980 Delhi 188, AIR 1993 Supreme Court 1742, AIR 1974 Calcutta 261.

15. The 1st Respondent has relied on the decision reported in AIR 1987 Supreme Court 2328 to say that the present litigation acts oppressively to the interest of the 1st Respondent and in that specific performance ought not to be granted to the claimant.

Rama Krishna

16. The 1st Respondent has also relied on the decision in AIR 1989 Andhra Pradesh 276 to contend that a person committing default cannot seek for specific performance of the contract and has further contended that as per the decision in AIR 1959 Madhya Pradesh 30 the contract was voidable at the option of 1st Respondent on the failure of obligation by the Claimant and 2nd Respondent and as such the 1st Respondent has terminated the agreement. Such termination is not unilateral as alleged by the Claimant.
17. The 1st Respondent has also relied on the decision in AIR 1934 Madras 135 to contend that a party to a contract cannot be permitted to take advantage of its own wrongs.
18. On the basis of the above decisions relied upon by the 1st Respondent, the 1st Respondent has contended that time being essence of the Agreement and the defaults having been committed by the Claimant and the 2nd Respondent, and the payment having not been made in time, the 1st Respondent had no option but to treat the contract as voidable and terminated the Agreement and therefore the Claimant cannot seek for specific performance of the avoided agreement.
19. Per contra the Claimant has contended by relying on ILR 1995 Kar 492 that a mere fixation of time period for the performance of a contract or the doing of a certain thing does not by itself make time the essence of the contract. The initial presumption is that time cannot be essence of the contract in cases

R. G. Maheshwari

involving sale of immovable property. There being reciprocal promises to be performed, time cannot be treated as the essence of the Agreement.

20. The Claimant has also relied on the decisions of the Hon'ble Supreme Court in AIR 1967 Supreme Court 868 and AIR 1999 Supreme Court 3804 contending that time cannot be essence of contract in contracts relating to the sale of immovable property and mere fixation of time would not make it as essence of the contract. What is to be seen is the true intent of the parties by appreciating the entire agreement as a whole.

21. As already stated the 2 agreements are admitted documents. Payments under the 2 agreements are also admitted. Now the only dispute which arose for consideration is the resolution of litigation and encumbrances on property which apparently has delayed and caused certain disputes between the parties. In view of the fact that the 2nd Respondent has communicated that much of the litigation has been cleared there apparently is no bar or obstacle for execution of the Sale Deed in favour of the Claimant by the Respondents. Thus even this issue has become a non-issue.

22. All the parties seem to be have been ready and willing to perform their respective obligations but were unable to do so on account of the pendency of certain litigations/encumbrances. It is a matter of common knowledge that clearance of litigations/encumbrance do take some time and there cannot be a specific date which could be fixed by which these issues could be resolved. The 1st Respondent was always aware of the obligation undertaken by the 2nd

Ramakrishna

Stamp: 13/03/2009, Registrar, Bangalore

Respondent as regards clearance of litigation/encumbrances and then the sale of the Claim Schedule Property in favour of the Claimant.

23. The 1st Respondent did not object to the said clause in the Nomination Agreement at any point of time. Thus it was too late in the day for the 1st Respondent to contend otherwise in February/March 2006. The action of the parties as has been communicated and brought to the notice of this Tribunal by the learned counsel appearing for the Claimant clearly indicate that it is on account of the payment of amounts by the Claimant and the efforts made by the Claimant and the 2nd Respondent that the much of the property which was originally under litigation and encumbrances, has been freed from such litigations and encumbrances. The details of the payment made by the claimant, by production of the copies of various letters over a period of nearly 2 years establishes the bonafides and the intention on part of the Claimant apart from its readiness and willingness to complete the transaction, the Claimant has also been requesting the 2nd Respondent to clear the litigations and encumbrances vide its innumerable letters.

24. The Claimant have gone to the extent of making payment of betterment charges, khata transfer fees etc., so that the title of the 1st Respondent is perfected. Admittedly the possession of properties which were cleared from litigation is still vesting with the 2nd Respondent. Needless to say that there is a part performance of the Agreement complying with the requirement of Section 53(a) of the Transfer of Property Act.

Rama Krishna

25. For the aforesaid reasons the claim of the 1st Respondent that the agreement has been canceled has no merits. Admittedly the same has not been consented to or accepted by the Claimant and the 2nd Respondent. Hence the plea of termination/cancellation of the Agreement is rejected.
26. If the said claim of cancellation is rejected on account of part performance, by handing over possession making payment of monies, acting on the agreements etc., then naturally the Agreements Continue to be in force and are binding on the parties, thus the claim of the Claimant needs to be allowed. It is however true that there is a delay in the completion of the transaction which was to be completed by 9.3.2006. The said delay cannot in any manner be attributed to the Claimant. However, it is also true that the 1st Respondent has suffered some losses on account of delay which can be compensated by directing the claimant to make payment to the 1st Respondent of interest @ 12% per annum calculated from 24-03-2006 till date of payment.
27. In the result under Section 31 of the Arbitration Conciliation Act 1996, my Award is as follows:
- i) The Claim Petition is allowed by granting decree for Specific Performance and the Agreement for Sale dated 9.3.2004 read with Nomination Agreement dated 03.05.2004. The Claimant shall pay the amount of Rs.22,12,23,983 as indicated in the Nomination Agreement dated 03-05-2004. On such payment being made, Respondents will simultaneously deliver possession of lands mentioned in the Schedule to the Claim and the Schedule to this Award to the Claimant and also handover all original title deeds, documents etc., in respect of the Schedule Property to the Claimant.
 - ii) The Claimant is directed to make payment to the 1st Respondent of interest @ 12 % per annum on the consideration amount of Rs. 22,12,23,983 calculated from 24-03-2006 till date of payment.

[Handwritten Signature]

- iii) The 2nd Respondent shall clear all other litigations or encumbrances if any existing as regards the Claim Schedule Property, if not already cleared.
- iv) Respondent No. 1 and 2 are directed to from time to time and at all times hereafter at the request and costs of the Claimant execute and register or cause to be done executed and registered all such further acts deeds and things for further better and more perfectly assuring the Schedule Property and every part thereof as shall or may be reasonably required by the Claimant and obtain all requisite permissions from the concerned authorities, if so required.
- v) The Claimant shall be entitled to apply for and obtain khata of its name in the records of the appropriate authority pursuant to and in accordance with the terms of this Award.
- vi) Respondent No. 1 and 2 are directed to either jointly or severally assist and co-operate with the Claimant in getting its name recorded in the records of the appropriate authority and I further direct the Respondents jointly and/or severally from time to time and at all times hereafter at the request and costs of the Claimant to make, sign and execute all papers and documents and other acts, deeds and things as shall or may be required by the Claimant.
- vii) The award itself is to be treated as conveyance of the Schedule property by the Respondents in favour of the Claimant.
- viii) The Claimant is liable to pay whatever Stamp Duty payable on this Award under the Karnataka Stamp Act and may be registered under the Indian Registration Act.
- ix) In the circumstances, there will be no order as to cost.

Signed by me at Bangalore on 30th Nov, - 2007

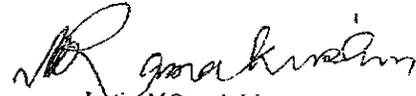
SCHEDULE PROPERTY

All that piece and parcel of land bearing Municipal No.54 (earlier HASB Khata No.146/1A, 146/1B, 146/1C, 146/1D formed in Survey No.146/1), Municipal No.55 (earlier HASB Khata No.982/2, 983/3, 984/4, 985/5 formed in Survey No.146/3), Municipal No.56 (earlier HASB Khata No.955/1 formed in Survey No.156/6, HASB Khata No.956/2 formed in Survey No.156/5, HASB Khata No.957/2 formed in Survey No.156/4, HASB Khata No.958/3 formed in Survey No.156/3,

R. G. Krishna

HASB Khata No.959/4 formed in Survey No.156/2), Municipal No.62 (earlier HASB Khata No.966/2 and 967/3 formed in Survey No.156/1), Municipal No.60 (earlier HASB Khata No.706/1B-314/1B, formed in Survey No.143/2, HASB Khata No.970/2, 971/3, 972/4, 973/5, 706/1C-314/1C formed in Survey No.143/3), Municipal No.61 (earlier HASB Khata No.636/1, 636/2 formed in Survey No.147/2), Municipal No.62 (earlier HASB Khata No.740/1 formed in Survey No.155/3E, HASB Khata No.740/2 formed in Survey No.155/3F, HASB Khata No.741/2 formed in Survey No.155/3G), Municipal No.64 (earlier HASB Khata No.990/2, 991/3, 992/4, 993/5, 994/2, 995/3, 996/4, 997/5 formed in Survey No.146/2), Municipal No.65 (earlier HASB Khata No.706/1E, 706/1F, 706/1D formed in Survey No.148), Municipal No.66 (earlier HASB Khata No.733/3, 734/1, 735/1 formed in Survey No.147/1), Municipal No.67 (earlier HASB Khata No.736/2, 736/2A, 736/3B, 736/4C formed in Survey No.147/2), Municipal No.68 (earlier HASB Khata No.736/1, 737/3 formed in Survey No.147/2), Municipal No.69 (earlier HASB Khata No.737/1, 738/1, 739/1 formed in Survey No.155/1B) in all measuring 3,25,857 Square Feet, all situated at Muniyellappa Garden, Kodihalli, Ward No.73, Airport Road, Bangalore and bounded as follows;

- ON THE EAST : Property belonging to Rustum Bag;
- WEST : Road leading to Karnataka Golf Association and Private Property;
- NORTH : Remaining portion of property belonging to Medical Relief Society and Private Property;
- SOUTH : BWSSB Nala/Storm Water Drain;


Justice M Ramakrishna
Sole Arbitrator

Bangalore
Date: 30 NOV, 2007

BEFORE THE ARBITRAL TRIBUNAL CONSISTING OF
JUSTICE MR. M. RAMAKRISHNA, RETD. CHIEF JUSTICE HIGH
COURT OF JAMMU AND KASHMIR/
SOLE ARBITRATOR

28
Date: 28.02.2008

IN THE MATTER OF DISPUTE

Suruchi Properties Private Ltd., Claimant

Versus

Medical Relief Society of South Canara
And another. ... Respondents

Present:

Mr. Ashwin Sancheti
Suruchi Properties Private Ltd.,

Mr. G S Srinivas
Advocate for Suruchi Properties Pvt. Ltd.,

Mr. H.R Srinvas Rao
Medical Relief Society of South Canara.
Respondent No.1.

Mr. L S Kiran Mayee
Advocate for Respondent No.1.

Mr. P. Dayanand Pai,
Respondent No.2.

Mr. Umesh Y
Advocate for Respondent No.2

1. The Tribunal passed an Award on 30.11.2007 directing the Claimant to make payment of various amounts and directing the Respondents to handover the possession of the Award Schedule Properties to the Claimants along with the original documents relating thereto. Subsequent to the award the parties wished to have the present sitting to confirm the following:

Mr. Ramakrishna

- i. To confirm the payment having been made;
 - ii. To confirm handing over of the possession of the property to the Claimant;
 - iii. To confirm the handing over all the original documents relating to the Schedule Property to the Claimant
2. **Payments:** In terms of the Award dated 30.11.2007 the Claimants have made the necessary payments to the 1st Respondent. The receipt of which has been confirmed to have been received in full and final settlement of all the dues payable by the Claimant and the 2nd Respondent to the 1st Respondent.

Date	Cheque No.	Amount	Favouring	Drawn on
01.12.2007	274790	50,000,000.00	The Medical Relief Society of South Canara	Vijay Bank, Residency Road Branch, Bangalore - 560 025
15.12.2007	274791	50,000,000.00	The Medical Relief Society of South Canara	
01.01.2008	274792	50,000,000.00	The Medical Relief Society of South Canara	
15.01.2008	274793	50,000,000.00	The Medical Relief Society of South Canara	
01.02.2008	274794	21,223,983.00	The Medical Relief Society of South Canara	
Total		22,12,23,983.00		

The above amount totally constitute Rs.22,12,23,983/- (Rupees Twenty Two Crores Twelve Lakhs Twenty Three Thousand Nine Hundred Eighty Three only) being the sale consideration under the Agreement of Sale dated 9.3.2004 and the Nomination Agreement dated 3.5.2004.

3. **Interest:** I had vide my Award directed the Claimant to make payment of Interest @ 12% p.a. on the Sale Consideration. The 1st Respondent has confirmed having received a sum of Rs.2,08,16,260/- (Rupees Two Crores Eight Lakhs Sixteen Thousand Two Hundred Sixty Only) by way

R. G. Krishna

of Cheque No. 274795 dated 28-02-2008 drawn on Vijaya bank Residency Road Branch in favour of Medical Relief Society of South Canara which amounts are in full and final settlement of the interest amount due under the Award.

4. **POSSESSION** – The Claimant and the Respondents have indicated that possession of the Claim Schedule Property, as indicated in the award has been handed over to the Claimant by the Respondents on 15.2.2008. The Claimant has confirmed having received the possession of the said property.

5. **Original Documents:** The respondents have submitted that they have handed over all the original documents pertaining to the Schedule Property. A list as furnished by them is annexed to these Minutes at 'Annexure – 'A'. The Claimants having confirmed receipt of all the original documents have submitted that in the event of any further documents being required the Respondents be directed to hand over those documents. Since I have already passed the Award directing the Respondents to handover all the original documents and other documents pertaining to the property, I see no reason to pass any fresh direction. The direction under the Award would apply for any and all documents relating to the Schedule Property whether handed over by now or not.

These Minutes shall also form part of the Award already passed by me.

Bangalore
Date: 28 Feb, 2008


ARBITRATOR

RECEIVED
28 FEB 2008