

ITEM NO.59

COURT NO.8

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No(s). 11940/2022 in Civil Appeal Nos. 7131-7132 of 2010

FARHAT SHEIKH

Petitioner(s)

VERSUS

JAVED ZAKI . & ORS.

Respondent(s)

IA No. 83842/2024 - APPLICATION FOR SETTLEMENT
IA No. 58641/2022 - INTERVENTION/IMPLEADMENT)

WITH

Diary No(s). 11763/2022 (XVI)
IA No. 57933/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 163264/2023 - MODIFICATION

Diary No(s). 17010/2022 (XVI)
(FOR APPLICATION FOR PERMISSION ON IA 81297/2022
IA No. 81297/2022 - APPLICATION FOR PERMISSION)

Date : 17-05-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE SANJAY KAROL

Amicus Curiae

Mr. R. Basant, Sr. Adv.
assisted by Mr. Akshay Sahay, Adv.

For Petitioner(s)

Petitioner-in-person
Appellant-in-person, AOR

For Respondent(s)

Mr. Nazmi Waziri, Sr. Adv.
Mr. Arvind Gupta, AOR
Mr. Khowaja Siddiqui, Adv.
Mr. Shashank Singh, Adv.
Mr. Ashwini Kumar, Adv.
Mr. Sohail Khan, Adv.
Mr. Shadab Ahmad, Adv.
Mr. Sandeep Kumar, Adv.
Mr. Arbaaz Khan, Adv.

Mr. Seshatalpa Sai Bandaru, AOR

Mr. Sanchit Garga, Adv.
Ms. Mithu Jain, AOR

Ms. Shailja Singh, Adv.

Mr. Siddhesh Shirish Kotwal, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

1. In Civil Appeal Nos. 7131-32/2010, this Court requested Mr R. Basant, Sr. Advocate on 01.02.2017 to make an attempt for settlement. After several mediation meetings, the three parties eventually entered into a Family Settlement Terms dated 19.04.2017 which was accepted by this Court on 20.04.2017. These three parties are as follows:

- a) First Party comprising Javed Zaki, Nasir Zaki, Wamique Zaki, Sunjida Zaki, Kausar Zaki and Anisa Zaki
- b) Second Party comprising Mujahid Zaki and Ruby Zaki
- c) Third Party i.e Farhat Shiekh

2. The Second Party failed to comply with its obligations under the Family Settlement Terms dated 19.04.2017. When parties approached the Mediator, the Mediator vide order dated 27.02.2022 directed the parties to approach this Court for further orders/directions.

3. Thus, parties again approached this Court. Second Party sought last opportunity and gave undertakings before this Court to

comply with all its obligations under the said Family Settlement Terms. On 17.10.2023, this Court was apprised that the Second Party has again failed to comply. In these circumstances, this Court found it appropriate to appoint Mr. R. Basant as an amicus for his assistance to resolve the disputes and as to what orders should be passed in the facts of this case.

4. Pursuant to this Court's order, the Amicus again held settlement talks to try to get the matter settled. The parties were finally able to execute a Supplementary Family Settlement Terms dated 01.05.2024. On 01.05.2024, this Court was apprised about the execution of the said Supplementary Family Settlement Terms dated 01.05.2024. On consideration, this Court passed detailed directions *inter alia* that the Escrow (Shri A. Karthik, Advocate) shall visit Mumbai to oversee the handing over of the immovable and/or movable properties and connected documents of M/s Detinners to the First Party and submit report to this Court.

5. On 10.05.2024, the Escrow reported that all directions of the Court given on 01.05.2024 were smoothly complied with, to the satisfaction of the parties. The Court directed the parties to comply with the remaining obligations under the Supplementary Family Settlement Terms by 13.05.2024 and also directed the Escrow to

file a fresh report.

6. On 13.05.2024, the Escrow filed a further report and informed that it may take another 3-5 days to comply with the remaining obligations. Accordingly, the matter was listed on 17.05.2024 for final orders.

7. Today, the Escrow has reported that all obligations barring the execution and registration of the gift deed/relinquishment deed/power of attorney of 4, Moira Street property at Kolkata is complete. Mujahid Zaki and Wamique Zaki have undertaken that it shall be done on or before 15.06.2024.

8. In view of the settlement, at this juncture, the court is inclined to dispose of the matter with the following directions:

- a. The Supplementary Family Settlement Terms dated 01.05.2024 entered into between the parties is accepted.
- b. The affidavits of undertakings filed by all parties are accepted.

Their details are as follows :-

- i. First Party (5 undertakings dated 03.05.2024 by five members of the First Party and one undertaking dated 02.05.2024 by the sixth member)
- ii. Second Party (2 undertakings dated 03.05.2024 by both

members of the Second Party)

- iii. Third Party (undertaking dated 01.05.2024)
 - iv. Mujahid Zaki, Ruby Zaki and Farhat Shiekh have filed additional affidavits of undertakings dated 13.05.2024, 11.05.2024 and 13.05.2024 respectively stating that they have no charge over any properties or assets of M/s Detinners.
- c. Parties shall implement all the terms of the Supplementary Family Settlement Terms dated 01.05.2024, violation and non-observance by any party would be treated as non-compliance of the directions of this Court.
- d. An amount of Rs.8 crores was deposited by the wholly family-owned company M/s Detinners with the registry of this Court as per the order dated 06.02.2024.
- e. Remaining amount of Rs.19 crores was subsequently deposited with this Court in tranches by the First Party vide four demand drafts dated 28.02.2024 (two DDs), 03.05.2024 and 08.05.2024.
- f. To bring an end to the litigation of several decades and in the interest of keeping M/s. Detinners as a going concern, it is

directed that the entire amount of Rs 27 Cr along with interest accrued thereon to be released to the Third Party forthwith towards the full and final settlement and payable to her under the Supplementary Family Settlement Terms dated 01.05.2024.

- g. The Second and Third Parties shall have no rights and claims of possession on M/s Detinners or on any of its properties.
- h. The First Party is discharged from the obligations as receiver.
- i. The execution and registration of the gift deed/relinquishment deed/power of attorney in favour of Wamique Zaki by Mujahid Zaki in respect of 4, Moira Street property at Kolkata shall be done expeditiously in terms of Clause 36 of the Supplementary Family Settlement Terms dated 01.05.2024 on or before 15.06.2024. It is made clear here that as per stipulation in Clause 36 of the Supplementary Family Settlement Terms dated 01.05.2024, this settlement will not in any way prejudice right, title and interest of the parties in C. S. No. 169 of 2020 pending before the High Court of Calcutta.
- j. The order dated 20.10.2023 freezing the account of M/s Detinners was lifted by the last order dated 10.05.2024. The First Party/representative shall be entitled to operate the bank accounts of M/s Detinners from this day.

k. The order dated 20.10.2023 freezing the personal accounts and assets of the Second Party is now vacated, as also the restriction imposed by this Court by the said order on Mujahid Zaki restraining him from travelling abroad. The Immigration Authorities shall be forthwith informed by the Registry.

9. Since the Amicus did not agree to receive any amount as honorarium for the work done, the parties have made a voluntary donation of Rs 45,00,000/- (Rs 15 lakhs each) to a registered public charitable trust – Adv. K. Bhaskaran Nair Foundation, a public charitable trust registered under the Income Tax Act, 1961 to perpetuate the memory of Late Advocate K. Bhaskaran Nair, Calicut under whom the Amicus had started his legal career as a junior.

10. The fees of the ESCROW – Mr. A. Karthik and his assisting counsel Mr. Akshay Sahay has already been paid by the parties, which is taken note of.

11. It is the duty of the Court to acknowledge the assistance rendered by Mr. R. Basant, learned Amicus Curiae, the ESCROW Mr.A. Karthik, assisted by Mr. Akshay Sahay, to bring this litigation into a happy settlement between the members of the family. The Court is grateful for rendering such service by them and we

acknowledge their assistance.

12. We also acknowledge the cooperation rendered by Mr.Nazmi Waziri, Sr. Adv, Mr. Khowaja Siddiqui, Adv, Mr. Sanchit Garga, Adv. Ms. Mithu Jain, Adv. for disposal of this long drawn litigation.

13. With the above directions, the present matter, including impleadment/intervention application, if any pending, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER