

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (C) NO. 4290 of 2017**

M/S MITA INDIA PVT. LTD.

...PETITIONER

VERSUS

VIVEK SAGAR GUPTA

...RESPONDENT

ORDER

1. The defendant is before this Court. Suit filed by respondent/plaintiff seeking recovery of Rs.60399/- alongwith *pendente-lite* and future interest @ 24% *per annum* was decreed by the Trial Court *vide* order dated 31.01.2015. The appeal filed by the petitioner/defendant was dismissed. During the pendency of the second appeal before the High Court the following order was passed: -

“During the course of arguments, counsel for the appellant sought a pass over to take instructions from the appellant/defendant for compromising the matter and Director of the appellant/defendant Sh. Kavinder Singh Anand has confirmed that matter can be compromised by reducing the rate of interest granted by the trial court at 24% per annum to 8% per annum simple on the principal amount of Rs.45,712/-. This is acceptable to the counsel for the respondent/plaintiff.

2. Accordingly, this appeal will stand disposed of by upholding the judgments of the courts below except that the interest which is granted by the

courts below at 24% per annum will stand reduced to 8% per annum on the principal amount of Rs.45,712/-. This rate of interest of 8% per annum will be for the pre-suit period, pendente lite period and till date.

3. Appellant has deposited 50% of the decretal amount in this Court, and Registry after calculating the amount which would now be payable by the appellant/defendant to the respondent/plaintiff as per today's order will release the amount as deposited in this Court to the extent as required by today's order. If the amount deposited in this Court would be in excess of the amount payable to the respondent/plaintiff, then, the excess balance amount will be refunded to the appellant/defendant. In case, however, the amount deposited would be less than the amount payable by the appellant/defendant to the respondent/plaintiff as per today's order, then, the balance amount will be paid by the appellant/defendant to the respondent/plaintiff within three months from today.

4. Appeal is accordingly disposed of in terms of aforesaid consent order."

2. Now the petitioner/defendant has challenged the aforesaid order on a technicality. He would contend that the High Court erred in disposing of the matter without a written document or agreement signed by the parties, and hence the compromise arrived between the parties is not in terms of Order XXIII Rule 3 of the Civil Procedure Code, 1908.
3. All the same, in our considered opinion under the peculiar facts of this case, the ground asserted by the petitioner seems to be

misconceived. All orders passed on a consensus arrived between the parties before a court cannot be strictly treated to be one under Order XXIII Rule 3.

4. The legal position on Order XXIII Rule 3 is absolutely clear. Rule 3 of Order XXIII reads as under: -

“3. Compromise of suit.—Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, in writing and signed by the parties or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject-matter of the suit:

Provided that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question; but no adjournment shall be granted for the purpose of deciding the question, unless the Court, for reasons to be recorded, thinks fit to grant such adjournment.

Explanation.— An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 (9 of 1872), shall not be deemed to be lawful within the meaning of this rule.”

5. The provision has two parts, the first visualizes a situation where a suit has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the parties. On the other hand, the second part visualizes another situation

starting with “*where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit...*” In ***Gurpreet Singh v. Chatur Bhuj Goel (1988) 1 SCC 270***, this Court had distinguished between the two parts of Order XXIII Rule 3 and held that there is no requirement for the agreement to be written and signed by the parties under the second part. This Court had made the following observation:

“The word ‘satisfies’ denotes satisfaction of the claim of the plaintiff wholly or in part, and for this there need not be an agreement in writing signed by the parties. It is open to the defendant to prove such satisfaction by the production of a receipt or payment through bank or otherwise. The satisfaction of the claim could also be established by tendering of evidence. It is for the court to decide the question upon taking evidence or by affidavits as to whether there has in fact been such satisfaction of the claim and pass a decree in accordance with Order XXIII, Rule 3 of the Code.”

[See also: ***Jineshwardas v. Jagrani (2003) 11 SCC 372*** and ***Pushpa Devi Bhagat v. Rajinder Singh (2006) 5 SCC 566***].

6. It is clear that in the case at hand, the consent order passed by the High Court falls under the second part of Order XXIII Rule 3 and the consensus between the parties did not require a written compromise, signed by the parties.

7. The special leave petition is accordingly dismissed.

.....**J.**
(SUDHANSHU DHULIA)

.....**J.**
(RAJESH BINDAL)

New Delhi
January 16, 2024.

ITEM NO.55

COURT NO.17

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s). 4290/2017

(Arising out of impugned final judgment and order dated 19-10-2016 in RSA No. 101/2016 passed by the High Court Of Delhi At New Delhi)

M/S MITA INDIA PVT. LIMITED

Petitioner(s)

VERSUS

VIVEK SAGAR GUPTA

Respondent(s)

Date : 16-01-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. B.B.Sawhney, Sr. Adv.
Mr. Lakshay Sawhney, Adv.
Ms. Indra Sawhney, AOR
Mr. Mohd Nouman, Adv.
Mr. Huzefa, Adv.

For Respondent(s) Mr. T.A. Francis, Adv.
Mr. Mahesh Katyayan, Adv.
Mr. Sumit Kumar, AOR
Mr. Sarthak Katyayan, Adv.

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

The petition is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(MATHEW ABRAHAM)
COURT MASTER (NSH)

(signed order is placed on the file)