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6966 Date 19.03.05 No 101

Satish Modi

Manilal C. Modi, Hyd

Self

Smt. K. RUKMINI  
S.V.L. No.51/84 R.No.13/2005  
REGIMENTAL BAZAR, SEC' BAD-25.



**POST DECREETAL AGREEMENT/ADJUSTMENT**

This Post Decreetal Agreement is executed on this the 19<sup>th</sup> day of March 2005, at Secunderabad by and between:

1.
  - a) Gurudev Siddha Peeth, a Public Charitable Trust, with its Office at No.1, Ganeshpuri, rep.by its Authorised Executive Sri.Satish Modi, S/o.Late Sri.Manilal C Modi, aged 60 years, R/o.Jubilee Hills, Hyderabad.
  - b) Sri.Satish Modi, S/o.Late Sri.Manilal C Modi, aged 60 years, R/o. Jubilee Hills, Hyderabad.

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Hereinafter collectively referred to as the "Decree Holders" which expression shall include whenever the context may so require the successor-in-interest (in the case of Decree Holder No.1) and the heirs legal representatives, successors and assigns (in the case of Decree Holder No.2).

AND

M/s.H.P.Constructions Pvt. Limited, rep. by its Director Sri.G.S.Prakash Rao, S/o.Sri.G.Shankaraiah, aged about 60 years, having its regd office at 1-4-879/72/A, Gandhi Nagar, Hyderabad.

Hereinafter referred to as the "Judgement Debtor" which expression shall include whenever the context may so require its successor-in-interest.

Witnesseth as follows:-

The Decree Holder No.1 is the sole absolute and exclusive owner of premises bearing No.187/3 and 4/8 in land admeasuring 2331 Sq.yards equivalent to 1949 Sq.meters situated at Karbala Maidan, Secunderabad. The parties herein entered into an Agreement dated 18-12-1992 under which the Decree Holder agreed to sell and the Judgement-Debtor agreed to purchase the said property for a total consideration of Rs.70,85,000/- (Rupees Seventy Lakhs Eighty Five Thousand only). The Judgement-Debtor paid a sum of Rs.12,00,000/- (Rupees Twelve lakhs only) to the Decree Holders as advance and earnest money. On the said day, the possession of the property was delivered by the Decree Holders to the Judgement-Debtor. The Judgement-Debtor at its cost was entitled to carry on developmental work in the property and also raise constructions thereon. The Judgement-Debtor was entitled to canvass for the

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sale of the units constructed by it. The Judgement-Debtor at its cost was to obtain necessary permissions for construction to be raised. The Decree Holder had to obtain clearance under Urban Land Ceiling and from Income Tax Authorities for the sale of the property to the Judgement-Debtor. The Agreement specified that the balance of the sale consideration i.e. Rs.58,85,000/- (Rupees Fifty Eight Lakhs Eighty Five Thousand only) was to be paid within twelve (12) months of the date of the Agreement i.e. on or before 18-12-1993. In the event of non-payment within the said period, the Judgement-Debtor was liable to pay interest on the balance at the rate of 12% per annum and after twenty two (22) months from the date of Agreement at the rate of 18% per annum. In any event the entire balance had to be paid within thirty eight 38 months from the date of the Agreement. The Agreement further provided that if the interest is not paid for any two quarters, the Agreement would stand cancelled and the Judgement-Debtor had to re-deliver the property to the Decree Holders.

According to the Decree Holders, the Judgement-Debtor committed default in payment of the amounts due and thereby committed breach of the Agreement. The Decree Holders therefore filed a suit for possession of the property. The said suit was numbered as O.S.No.358 of 1994 on the file of the Hon'ble III Senior Civil Judge, City Civil Court, Secunderabad. The said suit was later transferred to the court of the Hon'ble I Additional Chief Judge, City Civil Court, Secunderabad and renumbered as O.S.No.18 of 2004.

The Judgement-Debtor in the said suit contended that the Agreement dated 18-12-1992 was not an Agreement of Sale simpliciter but one of Agreement of Sale cum Development Agreement that the effective possession of the property was not delivered on 18-12-1992 that there was an inordinate delay in

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delivering possession of the property, that the Decree Holders committed breach of the essential terms of the contract by not obtaining No Objection Letter from the Neighbour, etc and not obtaining permission under ULC Act of 1976 and from Income Tax Authorities and by not obtaining necessary permission for conversion of land use from Light Industrial Zone to Commercial cum Residential Zone and that Rs.12,00,000/- is paid towards part sale consideration etc. The Judgement-Debtor also contended that after it started the developmental work, it was found that the land became water logged due to heavy rains and that the Decree Holders. The Judgement-Debtor resisted the suit filed by the Decree Holders.

After due trial and after hearing the verbal arguments and pursuing the written submissions, the Hon'ble I Addl. Chief Judge, City Civil Court, Secunderabad decreed the suit of the Decree Holders by a Judgement dated 17-01-2005. By the said Judgement, the Judgement-Debtor was directed to deliver possession of the property to the Decree Holders within two months of the date of Judgement.

Thereafter, the parties have met and after due discussions and deliberations have settled their disputes and have agreed to incorporate the terms agreed upon in this Agreement. The parties have also agreed that the said agreement would be recorded in the Hon'ble Court of I Addl. Chief Judge.

**Now this Agreement witnesseth as under:**

1. The Decree Holders shall refund the advance of Rs.12,00,000/- (Rupees Twelve Lakhs only) paid by the Judgement-Debtor. and all sums expended by the Judgement-Debtor towards cost of material labour etc., for commencing the developmental work and for safeguarding the

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property from trespassers quantified at an aggregate sum of Rs.60,00,000/- (Rupees Sixty Lakhs only).

2. The Decree Holders have this day paid a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) to the Judgement-Debtor, through pay orders dated 17-3-2005, bearing nos 115132 and 115133 each for a sum of rupees 10,00,000/- (Rupees ten lakhs only) and through Pay order dated 17-3-2005 and bearing No.115137 for a sum of Rs.5,00,000/- (Rupees Five Laksh only), the receipt of which sum is hereby acknowledged by the Judgement-Debtor. The Judgement -Debtor today delivered vacant and peaceful possession of the suit schedule property to the Judgement - Debtor No.2, the receipt of which is acknowledged by the Decree-Holder No2 for himself and on behalf of Decree-Holder No.1.
3. The Decree Holders shall pay the balance of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) within 90 days of this Agreement. In the event of the Decree- Holders failing to pay the balance within the said period, the Decree Holders shall pay the said sum with an interest calculated @ 18% per annum from the date of default within 90 days thereafter. If the Decree Holders failed to pay the balance within the said extended period, the Judgement-Debtor shall be entitled to recover the said sum by enforcing this Agreement/ Adjustment. In discharge of the balance sum of Rupees thirty five lakhs the decree-holder has issued postdated Cheque No.556513 dated 16-6-2005 drawn in favour of Judgement-debtor and drawn on HDFC Bank, Sec-Bad Branch. The Decree-Holder undertakes to Honour the post-dated cheques when presented for payment on its due date. In the event of the cheque being not honoured,

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on such presentation the Judgement-Debtor shall be entitled to recover the balance amount due in a lumpsum without prejudice to its rights to proceed under section 138 of N.I.Act.

4. In consideration of the mutual agreement arrived at, the Judgement-Debtor shall not prefer any appeal against the Judgement Decree dated 17-01-2005 in O.S.No.18 of 2004 (Old No.358/1994).
5. Both parties agree that in view of the settlement arrived at, each party has no further claim against the other. The Judgement-Debtor hereby declares that it has no right or interest in or against the said property.
6. The present Post Decretal Agreement/Adjustment is being made in duplicate to enable each parties to have one Post Decretal Agreement/Adjustment.

In witness whereof, the hands of the parties on the date and at the place mentioned above.

Witnesses:

1. *J. Marathi*  
 J. MARATHI  
 PLOT 10 Road 5  
 Jubilee Hills  
 Hyderabad- 33.

2. *Soham Modi*  
 SOHAM MODI  
 Plot No. 280  
 Road No. 25  
 Jubilee Hills  
 Hyd- 34.

*Sateesh mod.*  
 1 (a) (Authorised Executive)

*Sateesh mod.*  
 1 (b) (Decree Holders)

*[Signature]*  
 2) Judgement Debtor