ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

HCA No.398 of 2006

Order with signature(s) of Judge(s)

Present:

Muhammad Ali Mazhar, J. Abdul Maalik Gaddi, J.

ACME Mills (Pvt.) Ltd.		Appellant
	Versus	
National Tiles and Ceramics Ltd.,		Respondent

25th January, 2017.

Date

None present for the Appellant. Mr. Muhammad Amin, Advocate for the Respondent.

Muhammad Ali Mazhar, J. This high court appeal has been preferred against the impugned consolidated judgment dated 17.03.2006 passed by this court in Suit No.101 of 1993 and Suit No.206 of 1992. The respondent filed a Suit No.101 of 1993 for recovery of amount, while the appellant filed a Suit No.206 of 1992 for recovery of damages. Learned Single Judge vide consolidated judgment dated 17.03.2006 held in concluding paragraph as under:-

> "In view of the above discussion it is clearly established that ACME took delivery of 2421.50 square meters of tiles and after adjusting advance payment for 1600 square meters of tiles did not make payment for the balance 821.50 square meters of tiles. ACME also failed to make out a case for damages. Therefore Suit No.206 of 1992 is dismissed whereas National Tiles and Ceramics Limited has established it case of an unpaid seller and its suit No.101 of 1993 is decreed in a sum of Rs.210,169/- being the price of 821.50 square meters of tiles to be recovered from ACME alongwith interest payable at the rate of 6% per annum in terms of Section 34 CPC chargeable from October 1990 till the entire decretal amount is recovered. The costs shall follow the event."

2. The order dated 28.11.2014 in this high court appeal reflects that both the learned counsel jointly stated that the parties are trying

to settle the dispute amicably out of the court and requested for some time and on this request, matter was adjourned. Today though learned counsel for the appellant is called absent but the learned counsel for the respondent has filed a statement in court alongwith certified true copy of application for compromise submitted in the Execution Application No.04 of 2007 and the order dated 26.04.2016 passed by the learned Ist Senior Civil Judge/Rent Controller, Karachi (West) in Execution Application No.04 of 2007. The application for compromise shows that the appellant paid Rs.300,000/- (Rupees Three Lac only) to the respondent with this assurance that the appellant will immediately withdraw this high court appeal against the respondent. On filing of this application for compromise, learned Ist Senior Civil Judge/Rent Controller, Karachi (West) passed the order and the execution application filed by the respondent against the present appellant was dismissed as withdrawn and the assurance given by the appellant for withdrawing this appeal is also reflected in the order dated 26.04.2016.

3. The chronology of the matter do show that the matter has been resolved between the parties amicably and the execution application pending against the impugned judgment has also been dismissed as withdrawn.

4. In view of the above, this high court appeal is disposed of accordingly alongwith pending application.

JUDGE

JUDGE

Faizan/PA*