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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO(OS) 124-125/2011

JOGINDER PAL SHARMA

..... Appellant

Through: Mr. Vivek Arora, Advocate.

versus

SURESH CHANDER MATHUR & ORS.

..... Respondent

Through: Mr. Rajesh Baweja, Advocate for LR's (iii)
& (vi) of R-2.

CORAM:

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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ORDER
15.11.2011

The appeal is directed against the impugned order dated 27.1.2011 in terms whereof the endeavour of the appellant to seek recall of the order dated 5.5.2006 dismissing the suit for non-prosecution has proved to be unsuccessful.

The dispute has dragged on for 17 years. The genus of the dispute is an Agreement to Sell dated 26.3.1994 signed by the deceased defendants in favour of the appellant for sale of property bearing No.A-22, Kamla Nagar, Delhi. The agreed consideration was ₹70.00 lakh out of which ₹1.00 lakh was paid. The balance consideration was to be paid by 30.9.1994.

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physical file have been compared and
the digital data is as per the physical
file and no page is missing.

[Handwritten signatures]
Vivek Arora
Rajesh Baweja
Joginder Pal Sharma

(4)

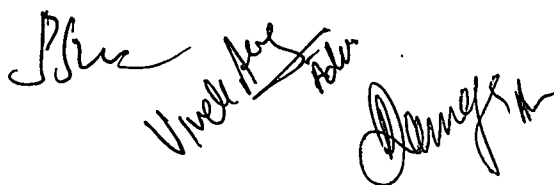
The balance consideration was not paid and a notice of forfeiture of earnest money is alleged to have been issued on 6.10.1994 and the property was sold by the deceased defendants on 13.12.1995. The suit was filed only on 18.3.1997 for specific performance or in the alternative for damages.

The list of dates given by learned counsel appearing for the LR's of respondent No.2 shows that the suit was prosecuted in a negligent manner resulting in the dismissal of the suit for non-prosecution on 5.5.2006. The application for restoration was filed on 31.3.2008 and even for the said purpose no steps were taken for service of the respondents resulting in the impugned order dated 27.1.2011.

We impressed upon learned counsels for the parties that it is a fit case where parties must seek to end the dispute and fortunately the parties have agreed to put an end to the dispute.

It is agreed by the parties as under:

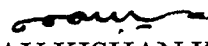
- i. The LR's represented by learned counsel for respondent No.2 will pay a sum of ₹2.00 lakh to the appellant in full and final satisfaction of claims of the appellant and the appellant will accept the same and not claim any further rights in the suit property or claim damages.
- ii. The parties will be left to bear their own costs.
- iii. The payment will be made within fifteen (15) days from today failing which it will carry interest @ 12 per cent per annum (simple interest).

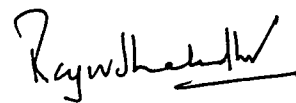


The aforesaid settlement is taken on record and the appeal accordingly stands disposed of.

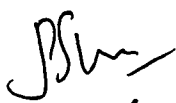
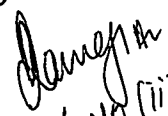
Learned counsels for the parties and the appellant present in Court have signed the order sheet in token of their acceptance.

The amount be paid in the name of the appellant through counsel.


SANJAY KISHAN KAUL, J.


RAJIV SHAKDHER, J.

NOVEMBER 15, 2011
b'nesh


Vivek Kumar
Adv.
for Petitioner.

Damayanti
for LR NO. (ii) & (i)
3 R-2 & LR NO. 39 R-1