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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 253/2013**

M/S OMWAY BUILDESTATE PVT LTD. & ANR..... Appellants

Through : Mr. Amit Chadha, Sr. Adv. with
Mr. Alok Kumar Agarwal, Adv.

versus

SATYENDRA JAIN

..... Respondent

Through : Mr. Sanjeev Puri, Sr. Adv. with
Mr. Sanjay Sarin and Mr. Tarun
Rawa, Adv.

+ **FAO(OS) 254/2013**

M/S OMWAY BUILDESTATE PVT. LTD. & ANR.

..... Appellants

Through

versus

RAVI SHARMA

..... Respondent

Through : Mr. Sanjeev Puri, Sr. Adv. with
Mr. Sanjay Sarin and Mr. Tarun
Rawa, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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10.07.2013

3

These appeals are directed against a common order. The learned Single Judge by order dated 19th March, 2013 declined leave to contest the two suits, i.e. CS(OS) 47/2010 and 48/2010 preferred by the respondents/plaintiffs.

After hearing the learned counsel for the parties, the Court was of the opinion that unconditional leave ought to be granted to the defendants/appellants but subject to fulfilment of conditions such as securing the said amounts of Rs.5,75,17,240/- in CS(OS) 47/2010 and Rs.9,94,14,041/- in CS(OS) 48/2010 appropriately, this proposal was acceptable to the plaintiffs/respondents who were represented by their senior counsel Shri Sanjeev Puri. Learned senior counsel obtains instructions from the counsel as well as the respondent, who is present in the Court.

In the light of the above and having regard to the terms indicated by both the parties, through their counsel, the following directions are issued:-

- (i) The defendants/appellants shall secure the said amounts – as mentioned in the preceding portion of the order – to the extent of 50% through bank guarantee - within five weeks from today.
- (ii) Balance 50% of the said suit amounts shall be deposited in Court within five weeks thereafter, i.e. within ten weeks from

4

today. The Registrar is directed to immediately upon receiving the said amount ensure that they are kept in an interest bearing Fixed Deposit.

- (iii) Upon a compliance with the above directions, the respondents/plaintiffs shall hand over the original title deeds of the properties lying with them, in Court.
- (iv) Subject to compliance with the above order – especially with regard to the deposit of the amount and the furnishing of bank guarantee, the defendants shall file their written statement within twelve weeks from today.

Upon being satisfied with the compliance of the above directions, the learned Single Judge shall forthwith proceed with the merits of the suit and dispose of the same in accordance with law. At the stage of final disposal, the learned Single Judge shall also take into account and make appropriate orders having regard to the decision on merits as to the disbursement or release of the amount and the invocation of the bank guarantee and such amount or amounts as may be adjudicated if payable. This would include any restitutionary order as regards payment of bank guarantee or charges in respect of it.

5

The bank guarantee shall be unconditional and irrevocable and by a scheduled bank and it shall subsist for the entire duration of the suit.

Any further order with regard to custody of the title deeds shall be made by the learned Single Judge. The parties are at liberty to approach the learned Single Judge in this regard.

The impugned order is set aside, and substituted with the above directions.

The appeals are allowed in the above terms.


S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

JULY 10, 2013
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