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

+ CS(OS) 493/2014

DEEPAK RAJDOGRA & ORS ..... Plaintiffs  
Through: Mr. Ripin Sood, Advocate

versus

PREET SINGH BALHARA & ORS ..... Defendants  
Through: Mr. Samrat Nigam, Advocate

**CORAM:**  
**HON'BLE MS. JUSTICE HIMA KOHLI**

% **ORDER**  
**17.09.2015**

**REVIEW PET. 147/2014**

1. This application has been filed by the plaintiffs praying *inter alia* for review of the order dated 19.02.2014.
2. It is pertinent to note that on 02.05.2014, when the present application was listed before the predecessor Bench, namely, Rajiv Sahai Endlaw, J., it was observed that though the present application is couched as a review application, the plaintiffs are actually seeking recall of part of the order dated 19.02.2014, wherein the statement of the counsel for the plaintiffs was recorded, giving up the claim for specific performance. With these directions, the present application was directed to be placed before the Roster Bench.

3. Counsel for the plaintiffs states that after passing of the order dated 19.02.2014, the plaintiff No.1 had called upon his wife, plaintiff No.2 to look for some documents and thereafter discovered some hand written receipts allegedly executed by the defendants acknowledging receipt of amounts to the tune of Rs.19 lacs. Learned counsel states that the said amounts were paid by the plaintiffs to the defendants for sale of the first floor of the suit premises and therefore, the order dated 19.02.2014, whereunder the statement of the counsel to the effect that the plaintiffs do not claim any other right in the suit property except as tenants and they seek recovery of the amounts allegedly paid to the defendants, without claiming enforcement of the Agreement to Sell, ought to be modified.

4. Learned counsel for the plaintiffs states that at the time of instituting the suit, he had filed I.A. 3280/2014 under Order IX Rule 12 CPC for calling upon the defendants to produce some original documents, I.A.3281/2014 under Order VII R 14 CPC for reserving the right of the plaintiffs to claim larger relief and further I.A. 3282/2014 under Order II Rule 2 CPC for reserving the right of the plaintiffs to alter the reliefs sought or file a separate suit.

5. Pertinently, all the aforesaid applications were dismissed after the statement made by the counsel for the plaintiffs was recorded on 19.02.2014. The present application is nothing but an attempt on the part of the plaintiffs to wriggle out of the instructions given to the counsel as recorded on 19.02.2014. It is pertinent to note that specific queries were raised by the predecessor Bench on the counsel for the plaintiffs with regard to the claim in the suit, which has been filed as a simpliciter suit for permanent and mandatory injunction against the defendants No.1 to 3 seeking to restrain them from dispossessing him from the ground floor and first floor of the suit premises. In response, counsel for the plaintiffs had stated that the plaintiffs claim agreement to sell only in respect of the first floor and they were occupying the ground floor as tenants. Thereafter, counsel for the plaintiffs had stated on instructions from the plaintiff No.1 (husband of plaintiff No.2), who was present in Court, that the plaintiffs be permitted to give up their relief of agreement to sell and confine the relief in the suit only to injunction against forcible dispossession from the property as tenants.

6. In this background, the Court declines to entertain the present application. The same is patently misconceived and is accordingly dismissed.

**CS(OS) 493/2014 and I.A. 13435/2014, 3279/2014**

1. Counsels for the parties state that the defendants had instituted a suit for eviction against the plaintiffs in the trial court, on which a judgment and decree under Order XII Rule 6 CPC was passed against the plaintiffs in respect of the suit premises on 16.07.2015.

2. Aggrieved by the said decision dated 16.07.2015 passed by the ADJ, the plaintiffs had preferred an appeal in the High Court, registered as RFA 556/2015. Vide order dated 18.08.2015, the appeal was disposed of on agreed terms and conditions, one of the conditions being that the plaintiffs herein (appellants in the appeal) shall hand over vacant peaceful possession of the suit premises to the defendants on or before 31.12.2016. A copy of the aforesaid order is handed over by the counsels for the parties and is taken on record.

3. In view of the aforesaid order, nothing further survives for adjudication in the present suit, which is accordingly disposed of alongwith the pending applications.

4. Needless to state that the plaintiffs shall be entitled to seek their

remedies against the defendants for recovery of monies allegedly paid to them before the competent court in accordance with law.

**HIMA KOHLI, J**

**SEPTEMBER 17, 2015**

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