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

+ CS(OS) 1059/2015 and I.A. 8014-8015/2015

ANIL KUMAR YADAV

..... Plaintiff

Through: Mr. Siddharth Pandit, Advocate with
Mr. J.K. Sharma, Advocate

versus

SATISH KUMAR & ORS

..... Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% 21.04.2015

1. The plaintiff has instituted the present summary suit under Order XXXVII CPC, praying *inter alia* for recovery of ₹24,29,850/- against the defendants.
2. The suit is based on two cheques dated 08.09.2014, for a sum of ₹7,50,000/- each issued by the defendant No.1 in favour of the plaintiff and a sum of ₹15,00,000/- that the plaintiff claims to have paid to the defendants towards earnest money in respect of an Agreement to Sell dated 25.02.2015 relating to flat No.JH-1/78-A, CIG Flat, 1st Floor, Vikaspuri, Delhi, executed by the parties.
3. Counsel for the plaintiff has been requested to address the Court on the maintainability of the present suit under Order XXXVII CPC.

4. After addressing arguments for some time, learned counsel for the plaintiff requests that a relief in the suit be confined to recovery of ₹15 lacs, with interest being the value of the two cheques issued by the defendant No.1 and the plaint be returned to him to enable him to present it before the competent court vested with pecuniary jurisdiction to entertain the same. He also reserves the right of his client to initiate appropriate legal steps against the defendants in respect of the Agreement to Sell dated 25.02.2015.

3. Leave, as prayed for, is granted. The relief in the suit is limited to recovery of ₹15,00,000/- with interest. The Registry is directed to return the plaint to the plaintiff through counsel to enable him to present the same before the competent court vested with the pecuniary jurisdiction to entertain it. Liberty is also granted to the plaintiff to institute independent legal proceedings against the defendants for the alleged non-performance of their obligations under the aforesaid Agreement to Sell in respect of the immovable property referred to hereinabove.

4. The suit is disposed of alongwith the pending application.

HIMA KOHLI, J

APRIL 21, 2015

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