

\$~32

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 21/2016
SANDEEP GOEL & ORS

..... Petitioners

Through Mr.Rahul Raj Malik, Advocate.

versus

M/S MERA BABA REAL ESTATE PVT LTD

..... Respondent

Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **05.02.2016**

C.M. No.4153/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

C.R.P. 21/2016 & C.M. No.4152/2016 (stay)

Petitioner is aggrieved by the impugned order dated 21.12.2015 vide which the Court was of the view that a triable issue has arisen thus leave to defend has been granted in favour of the respondent. This order suffers from no infirmity.

Learned counsel for the petitioner is aggrieved by this finding; his submission is that letter dated 05.3.2011 which has re-cast the issue of limitation has not been considered by the Trial Court in its correct perspective. The petitioner has vehemently requested the builder/respondent to return his money; for this purpose letter

24.4.2007 has been sent to the respondent. The parties had entered into a contract on 30.3.2006. The Trial Judge was of the view that the Clause 5 which is a part of the agreement, which the parties had entered into, requires the question of limitation to be gone into in its correct perspective as there were two views possible. The submission of the learned counsel for the petitioner that the letter dated 05.3.2011 had extended limitation in his favour is prima facie incorrect as perusal of this letter clearly shows that this letter had in fact raised a demand on the petitioner in the sum of Rs.4,65,866/- which was the outstanding qua the petitioner. Impugned order in this background calls for no interference. A triable issue has arisen which requires a trial. This petition is dismissed with a cost of Rs.10,000/- to be deposited with the Delhi High Court Legal Services Committee.

INDERMEET KAUR, J

FEBRUARY 05, 2016

ndn