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

+ **FAO(OS) 424/2015**

MANJU JAIN

..... Appellant

Represented by: **Mr.Jinendra Jain, Advocate**

versus

CHARANJEET SINGH CHAWLA & ORS

..... Respondents

Represented by: **Mr.Yogesh Kumar Jagia,**
Advocate with Mr.Amit Sood and
Mr.Abhijeet Negi, Advocates for R-3
& R-4

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **11.02.2016**

Caveat Nos.798/2015, 800/2015

Counsel as above appears for the respondent/caveator and hence the caveats are discharged.

CM No.13675/2015

Allowed subject to just exceptions.

FAO(OS) 424/2015

1. Gagandeep Singh and Rajender Singh, shown as respondents No.4 and 5 in the appeal, filed a suit impleading Prithipal Singh Chawla, Charanjeet Singh Chawla and Manju Jain as defendants. Seeking specific performance of an agreement to sell dated December 25, 2010 against Prithipal Singh Chawla and Charanjeet Singh Chawla, they sought a

declaration that the mortgage created by Prithipal Singh and Charanjeet Singh in favour of Manju Jain be declared void and hence unenforceable. They also sought a declaration concerning a consent decree dated November 01, 2011 between Prithipal Singh and Charanjeet Singh on the one side and Manju Jain on the other. Reliefs were claimed against Manju Jain.

2. Counsel for Gagandeep and Rajender Singh, on advise from the two, filed an application to delete Manju Jain from the array of defendants and withdraw claim against her.

3. For reason unexplainable, Manju Jain started opposing the request, little realizing that by giving up the claim against her the cloud which was cast on her rights under the mortgage created in her favour by the owners of the property was blown away.

4. Holding that the plaintiff is the dominus litus, the learned Single Judge has allowed the request of the plaintiff and has deleted Manju Jain from the array of defendants observing that the plaintiffs give up relief against her.

5. We fail understand as to how come Manju Jain can have any grievance against the impugned order. In fact she should be very happy. A decree which she has against the owners of the property which was challenged as collusive has been allowed to remain as it is. A mortgage in her favour which was alleged to be an act of fraud has been permitted to stand as it is. For the said same property the plaintiffs seek decree for specific performance against the owners. They would be entitled to continue the suit limited only to the relief for specific performance.

6. The appeal is dismissed.

7. No costs.

CM No.13676/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 11, 2016

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