

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ FAO 219/2015 & C.M.12186/2015

RAJ BALA DEVI & ORSRespondents
Through: Mr. Sukh Bir Singh, Advocate for
respondents No.1-3

HON'BLE MR. JUSTICE SUNIL GAUR

Impugned order of 6th June, 2015 rejects appellant-plaintiff's application for stay in a suit for specific performance in respect of suit property. It is noted in the impugned order that the existence of *Agreement to Sell* is denied by the respondent-defendants. Learned counsel for appellant submits that there are photographs of the parties on *Agreement to Sell* and with the help of a handwriting expert, it will be easily established that the signatures on *Agreement to Sell* are of the respondents.

No doubt, respondents are not in possession of the suit property as of now as the legal heirs of late Sh. Nihal Singh are yet to hand over the possession of the suit property in pursuance of a partition decree, but the validity of existence of the specific performance agreement of 30th November, 2012 is an issue which can be resolved after substantial

evidence is recorded.

In view of above, learned counsel for appellant does not press this appeal while seeking the permission to file a fresh application for stay if there is any change in fact situation after the evidence of plaintiff and his witness i.e. a handwriting expert, is recorded. Both sides submit that the recording of evidence has commenced and the matter is now coming up before the trial court soon for cross-examination of the appellant.

In the facts and circumstances of this case, this appeal is dismissed as not pressed with permission to appellant to file a fresh application for stay if there is any change in fact situation after the evidence of plaintiff and his witness i.e. a handwriting expert, is recorded by the trial court. It is deemed appropriate to direct the trial court to expedite the recording of evidence and to return the decision in the appellant's suit preferably within a period of six months from the date already fixed.

With the aforesaid directions, this appeal and the application are disposed of while not commenting upon the merits of this case lest it may prejudice either side at trial.

Trial court record be remitted back forthwith. Trial court be apprised of this order forthwith.

(SUNIL GAUR)
JUDGE

JULY 28, 2016

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