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

+ CM(M) 82/2017

M/S MAJESTIC PROPERTIES PVT LTD

AND ORS

..... Petitioners

Through Ms.Jasvinder Kaur, Advocate

versus

R K TEJWANI

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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23.01.2017

By the present petition, the grievance of the petitioners is that on 02.01.2017 while dealing with a review petition filed by the petitioners, the trial court did not stay the operation of the order dated 03.12.2016.

The respondent has filed the present suit stating that the total loan amount, which was given to the petitioners, was to the tune of Rs.17,50,000/- as friendly loan and out of which Rs.6,50,000/- was returned to the respondent. However, the petitioners have taken different stand stating that the sum of Rs.17,50,000/- was given by the respondent as the respondent had booked a plot admeasuring 350 sq. yds on preferential basis in the project to be launched by the petitioners company in Rajpura, Punjab. Both sides are claiming on oral submissions, i.e. without any written document. The only facts which have been admitted are that the respondent had paid a sum of Rs.17,50,000/- to the petitioners. The petitioners refunded

Rs.6,50,000/- and a sum of Rs.11,00,000/- is lying with the petitioners. Dispute is whether this amount represents a loan or an advance to book property.

The trial court has directed the petitioners under Order 39 Rule 10 CPC to deposit the amount of Rs.11,00,000/- in court. If the amount is deposited, the same is to be kept in FDR.

In the light of the above facts, in my opinion, it is not possible for the court to substitute its discretion. The trial court while issuing notice on the review petition filed by the petitioners has not specifically granted stay of the order dated 03.12.2016. There are no reasons why this court should interfere in the discretion exercised by the trial court. Accordingly, the present petition and all the pending applications are dismissed.

JAYANT NATH, J.

JANUARY 23, 2017/v