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

+ RFA(OS) 1/2017

ALAKA KAPOOR & ORS

..... Appellants

Represented by: Mr.Keshav Dayal, Sr.Advocate
instructed by Ms.Astha Nigam,
Advocate

versus

M/S PRIME TIME INDIA PVT LTD & ORS

..... Respondents

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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04.01.2017

CM Nos.47-49/2017

Allowed subject to just exceptions.

CM No.50/2017

For the reasons stated in the application delay of 65 days in filing the appeal is condoned.

The application is disposed of.

RFA (OS) No.1/2017

1. Various applications have been dismissed by the learned Single Judge vide impugned order dated July 13, 2016. Appellants' grievance concerns dismissal of IA No.9401/2014 in which prayer made was to declare null and void compromise effected pursuant to IA No.1515/2015.

2. At the outset we note that the compromise in question was between defendants No.1, 5 and 7.
3. The appellants are the legal heirs of Ashwani Kapoor who was impleaded as defendant No.4 in the suit.
4. Relief claimed in the suit was to pass a decree for specific performance of an agreement to sell dated July 02, 2002 against Ashok Kapoor (defendant No.1) on the plea that he being 1/3rd co-owner of property bearing Municipal No.32, Golf Links, New Delhi agreed to sell his 1/3rd undivided share for ₹1.25 crores and received ₹1.15 crores. Relief claimed against defendant No.1 was on the plea that being a tenant it should be restrained from handing over possession of the first floor to any co-owner of the property. An award dated October 28, 2002 which was made rule of the Court on December 13, 2002 was also challenged on the plea that the proceedings therein was collusive. In the plaint it was averred that the plaintiff has entered into agreements to purchase the remaining 2/3rd share in the property from the other two co-owners.
5. The compromise between the parties was the acceptance by the plaintiff that share of defendant No.1 in the subject property would be treated as 28% in terms of the award. The compromise was that said share would be sold by defendant No.1 to the plaintiff.
6. The learned Single Judge has therefore rightly opined that defendant No.4 was not affected by the compromise and therefore the appellants cannot make any grievance in relation thereto.
7. Suffice it to highlight that the prayer in the suit challenging the award, which if granted would have affected the right of defendant No.4, was given up.

8. The grievance of the appellants that in execution of the compromise decree possibility of their rights being affected has rightly been negated by the learned Single Judge observing that as and when put into execution, the appellants would have a right to file objections if a relief in execution is prayed for of a kind which affects the rights of the appellants.

9. A grievance concerning possession of the first floor has been noted by the learned Single Judge, and rightly so, as being irrelevant to the legality of the compromise decree.

10. We find no infirmity in the impugned order and therefore dismiss the appeal in limine.

11. No costs.

CM No.46/2017

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

JANUARY 04, 2017

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