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

+ **CS(OS) 591/2017 and I.A. Nos. 12774-75/2017**

HANS U NAGAR

..... Plaintiff

Through: Mr. Kishore M. Gajaria and
Mr.Gaurav Puri, Advocates.

versus

JOHN NAGAR & ANR.

..... Defendants

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **30.11.2017**

1. After arguments, this suit is allowed to be withdrawn as prayed with liberty to the plaintiff to approach the competent court of territorial jurisdiction in Gurgaon, inasmuch as, the immovable property which is the subject matter of the suit is situated at Gurgaon.

2. I may note that at least so far as defendant no. 2 in this suit is concerned this Court would not have territorial jurisdiction because the sale deed executed by defendant no. 1 in favour of defendant no. 2 is executed at Gurgaon and with respect to lands in Gurgaon, and the cancellation deed also which is to be effected in case the suit succeeds will also be executed with respect to lands at Gurgaon and by a cancellation deed which will be registered at Gurgaon. This cancellation deed is a pre-condition before the plaintiff succeeds in

the suit as against defendant no. 1. Therefore, this Court does not have territorial jurisdiction more so in view of the judgment of the Supreme Court in the case of ***Harshad Chiman Lal Modi Vs. DLF Universal and Anr. (2005) 7 SCC 791***,

3. Since the plaintiff *bonafidely* filed this suit in this Court which does not have territorial jurisdiction, on account of subject Memorandum of Understanding (MOU) having been executed at Delhi, for the period of pendency of the suit, plaintiff will be entitled to the benefit of Section 14 of the Limitation Act.

4. Since the suit is withdrawn at the initial stage, plaintiff is entitled to refund of 50% of the Court fees paid in the suit in view of Section 16-A of the Court-fees Act, 1870 (as applicable to Delhi) and the Registry will issue necessary certificate in favour of the plaintiff within two weeks.

Dasti.

VALMIKI J. MEHTA, J

NOVEMBER 30, 2017

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