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

+ **RFA 347/2012**

AMAR CHAND

..... Appellant

Through: Mr. S.C. Singhal, Advocate.
(M-9810061558)

versus

MAN SINGH & ORS

..... Respondents

Through: Mr. Raman Kapoor, Senior Advocate
with Mr. Om Prakash, Mr. Rajeev
Pathak and Mr. Pradeep Tripathi,
Advocates for R-9 & 10.
(M-9810794902).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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08.05.2018

The present appeal arises out of the impugned judgment dated 24th April, 2012 by which the suit filed by the Appellant/Plaintiff for declaration, cancellation of sale deed and specific performance was dismissed. The Appellant is the Plaintiff in the suit. Respondent No.1 to 6 were the owners with whom the Agreement to Sell dated 2nd November, 1995 was entered into. The Appellant had paid a sum of Rs.3,50,000/- at the time of execution the Agreement. Respondent No.7 and 8 are the property brokers. Respondents No.9 and 10 are the subsequent purchasers from Respondent No.1 to 6.

The suit property is a land admeasuring the 24 Bigahs, 9 Biswa bearing Khasra No.19/21/2 (4-0), 22(4-12), 26/1/2 (3-18), 2 (4-12), 9 (4-14),

10/1 (2-13) situated in the village Dhansa, Delhi (*hereinafter*, 'suit property').

The present appeal was listed on 17th August, 2012 on which date this Court had directed that parties shall maintain status quo with regard to the suit property and Respondent No.9 and 10 shall not create any third party interest in the suit property. The said order is continuing till date. Respondent No.1 to 6 have not entered appearance despite service in the appeal. It was recorded in order dated 20th September, 2013 that all the Respondents except Respondent No.2 and 7 were served. Respondent No.2 and 7 had died during the pendency of the Trial Court proceedings and they had been proceeded *ex parte* by the Trial Court. Even the legal representatives of Respondent No.2 failed to appear as recorded in the order dated 23rd October, 2013. Thus, the Respondent No.9 and 10 are the only contesting parties.

The appeal was partly heard on 19th April, 2018. On 2nd May, 2018, parties reported that they have settled the matter. Today an application has been filed under Order XXIII Rule 3 of CPC.

CM/2018(to be numbered by the Registry)

This is a fresh application under Order XXIII Rule 3 CPC. Let the same be numbered by the Registry. As per the said application, parties have settled their disputes on the terms and conditions as captured in paragraphs 2(a) to 2(h). The application is signed by the parties except the daughter of the Appellant who is stated to be in custody. The application is supported by affidavits of Mrs. Veena Gupta, Mrs. Nikita Gupta and Mr. Aman Gupta all whom are the LR's of the Appellant. It is also supported by affidavit of Mr. Ram Niwas-R-9(a), Mr. Ramesh-R-9(b), Mr. Satpal-R-9(c), Mrs. Savitri

Devi-R-9(d) and Mrs. Rama-R-10.

Parties are present in Court and the Court has confirmed from them that they have understood the terms of the settlement. The Appellant's daughter, Ms. Nikita, is in custody but the Appellant's wife and son are present in Court. All the parties have understood the terms of the settlement and agree to abide by the same. The undertakings are given by the parties are taken on record. The impugned judgment and decree is modified in terms of the settlement. A decree shall now be passed as per paragraphs 2(a) to 2(h) of the settlement application.

The application is disposed of as settled.

As per the terms of settlement a sum of Rs.20,00,000/- (Rupees Twenty Lakhs) is to be paid by the Respondents to the Appellants. The entire sum has been handed over today by way of cheques. Copies of the cheques are taken on record. Some cheques for the amount of Rs. 10,00,000/- are post-dated. Counsel for the Respondent submits that his clients shall ensure that all the cheques are honoured. It is impressed upon them that dishonouring of the cheques would be viewed strictly. The undertakings are accepted and the appeal is disposed of as settled.

Impugned decree is modified in terms of the settlement. Decree sheet be drawn up accordingly.

PRATHIBA M. SINGH, J.

MAY 08, 2018

Rekha