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

+ CS(OS) 464/2017 & IAs No.11193/2017 (u/O XXXIX R-1&2 CPC)
& 11194/2017 (u/O I R-8 CPC)

RISHI MALHOTRA Plaintiff

Through: Mr. Anand Grover, Sr. Adv. with Mr.
Nikhil Boknankar, Mr. Pankaj
Sharma and Mr. David Vijay Thomas,
Advs.

Versus

BLUE COAST INFRASTRUCTURE DEVELOPMENT
PVT. LTD. & ORS

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.04.2018

1. The plaintiff has instituted this suit for rendition of accounts, for recovery of the monies found due and for perpetual injunction restraining the defendants from dealing with an immoveable property namely “Sheraton Chandigarh Hotel” at Chandigarh.

2. The suit has been filed under Order I Rule 8 of the Code of Civil Procedure, 1908 (CPC).

3. The senior counsel for the plaintiff has argued, (i) that the defendant No.1 was developing a hotel project at Chandigarh and entered into agreements to sell different portions thereof with a large number of persons; (ii) that the plaintiff has booked two units and has paid the entire purchase

consideration to the defendant No.1; (iii) that it was a term of the agreements that the defendant No.1, from the date of the agreement, will pay a return on the consideration received in advance, at a fixed rate, till the development/construction is completed and thereafter, the plaintiff would be entitled to rent from the person/s to whom the defendant No.1 lets out the entire property.

4. I have enquired from the senior counsel for the plaintiff, how the suit would be maintainable for rendition of accounts, inasmuch as the plaintiff, in the aforesaid facts, should be aware of the exact amount due under the agreement.

5. The senior counsel for the plaintiff, under instructions, does not press the relief, as far as for rendition of accounts and confines the present suit to recovery of the amounts due to the plaintiff from the defendant No.1 under the agreement. It is stated that the other defendants are the persons to whom the defendant No.1 has siphoned off the moneies received from the plaintiff and others.

6. Similarly, on enquiry, as to how Order I Rule 8 of CPC can be invoked since the transactions of defendant No.1, even if identical with others, are separate transactions, the senior counsel for the plaintiff, under instructions, gives up the relief under Order I Rule 8 of the CPC also.

7. On further enquiry, it is stated that a sum of approximately Rs.2,40,00,000/- would be due as on date of filing of the suit from the defendant No.1 to the plaintiff.

8. The senior counsel for the plaintiff, under instructions, seeks to withdraw the suit with liberty to file afresh on the aforesaid lines.

9. Dismissed as withdrawn with liberty aforesaid.
10. A certificate entitling the plaintiff to get refund of the court fees of Rs.27,000/- affixed to the present suit be issued and be handed over to the counsel for the plaintiff.

RAJIV SAHAI ENDLAW, J.

APRIL 09, 2018
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