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

+ **FAO 385/2017 & C.M. Nos.35955/2017, 5810/2018**

**NOORUDDIN**

..... Appellant

Through: Mr. Utkarsh Singh & Ms. Sujata Kumari,  
Advocates.

versus

**AKBAR ABBAS**

..... Respondent

Through: Mr. Himal Akhtar, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VINOD GOEL**

**ORDER**

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**03.12.2018**

1. The appellant has impugned the order dated 29.08.2017 passed by the court of learned Additional District Judge-02, South-East District, Saket, ('ADJ') by which his application under Order IX Rule 9 CPC for restoration of his suit for specific performance on the basis of an agreement to sell was dismissed.
2. Mr. Himal Akhtar, learned counsel for the respondent, on instructions, submits that he has no objection if the appeal is allowed and the suit is restored to its original number provided the appellant is burdened with heavy cost and made bound to his statement dated 27.09.2017 at the time of preliminary hearing to claim the relief of return of money paid by him under the agreement to sell along with appropriate rate of interest.
3. In the circumstances, after hearing the learned counsel for the

parties, the appeal is allowed and the suit of the appellant/plaintiff is restored to its original number before the court of learned ADJ subject to the appellant/plaintiff making the payment of cost of Rs.50,000/- to the respondent/defendant and further the appellant amend his plaint in terms of his statement dated 27.09.2017 to press only the relief of return of money paid under the said agreement to sell along with appropriate rate of interest. Pending applications being C.M. Nos.35955/2017, 5810/2018 also stand disposed of accordingly.

4. *Dasti.*

**VINOD GOEL, J.**

**DECEMBER 03, 2018**  
**‘AA’**