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

+ RFA No. 273/2007

VINOD KUMAR MALHOTRA

..... Appellant

Through: None.

versus

KAMLA DEVI BHARTI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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04.02.2019

1. No one appears for the appellant although it is 3.02 PM. This case is on the Regular Board of this Court since 22.10.2018.
2. The impugned judgment of the trial court dismisses the suit filed by the appellant/plaintiff seeking specific performance of the Agreement to Sell dated 8.2.2000 with respect to property no. F-15/10, Krishna Nagar, Delhi-51 admeasuring 200 sq. yds, and which is a three storeyed built up property.
3. Trial court has dismissed the suit by observing that the appellant/plaintiff failed to prove the subject agreement to sell, and which cannot be believed for the reason that the attorney of the appellant/plaintiff who appeared did not know whether the agreement to sell and connected

power of attorney was read over to the respondent no.1/defendant no.1. Also, the payment which is stated under the agreement to sell is not by banking instrument, i.e advance consideration of Rs.1,50,000/-is in cash, and it has not been proved that this cash amount has been paid to the respondent no.1/defendant no.1. Respondent no.1/defendant no.1 had denied execution of the agreement to sell and also receipt of the alleged advance amount of Rs.1,50,000/-.

4. Since no one appears for the appellant, this appeal is dismissed in default and for non-prosecution.

5. Let no application for restoration or recall of this order be entertained by the Registry of this Court unless costs of Rs.25,000/- are first deposited with the website www.bharatkeveer.gov.in.

VALMIKI J. MEHTA, J

FEBRUARY 04, 2019

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