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

+ CS(OS) 161/2020

NIRBHEEK MOUDGIL

..... Plaintiff

Represented by: Ms. Gauri Puri, Ms. Amrita Singh,
Advts. with plaintiff in person.

versus

VARUN MOUDGIL AND ORS.

..... Defendants

Represented by: Ms. Kanika Agnihotri, Adv. for D-1.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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29.07.2020

The hearing has been conducted through Video Conferencing.

I.A. 6250/2020 (exemption from filing duly affirmed affidavits and court fee)

1. By this application plaintiff seeks exemption from filing the duly affirmed affidavit and Court fees.
2. Considering the COVID-19 situation plaintiff is exempted from filing the affidavit in support of this application and I.A. 6249/2020 and Court fees at this stage. The same be filed within one week of the resumption of the normal Court functioning.
3. Application is disposed of.

I.A. 6249/2020 (under Order XXIII Rule 1 CPC-by plaintiff)

1. By this application the plaintiff seeks to withdraw CS(OS) 161/2020.
2. Plaintiff has filed the said suit seeking a decree of injunction, undivided interest and partition of the Basement, Ground Floor and Third

Floor along with the roof rights of property bearing No. D-6/32, Vasant Vihar, New Delhi.

3. No summons in the suit have been issued as yet and the plaintiff who has impleaded his two brothers and parents as the defendants in the suit seek to withdraw the suit with liberty to take remedies as available to him.

4. The reason for which the plaintiff seeks withdrawal of the suit have been set out in Para 3 of the application which are reproduced as under:

“3. It is submitted that the instant Suit has been filed by the Plaintiff seeking declaration of co-ownership of his 1/3rd share and Partition of the Suit Property. However, the Plaintiff seeks to withdraw the present Suit in view of the following reasons, inter alia:

- (a) At the outset, summons have not been issued in the present Suit.*
- (a) The instant Suit was first listed before this Hon’ble Court on 07.08.2020, wherein the Plaintiff was informed that the entire Property was purportedly gifted by Defendant No. 4 in favour of Defendant No. 1 by virtue of a Registered Gift Deed.*
- (b) It was further submitted that the Suit Property was subject matter of an Execution Petition being E.P. No. 71/2019 titled as “Neena Khatri vs. Varun Moudgil & Ors.”, (hereinafter the “Execution Petition”) which was filed seeking execution of an alleged Compromise Decree dated 01.05.2019 on the basis of a Settlement Agreement dated 22.04.2019 arrived between Neena Khatri, Varun Moudgil (Defendant No. 1 herein), Atul Moudgil (Defendant No. 2 herein), Foremost International Private Ltd. (Through his Director Varun Moudgil) and IDFC First Ltd. (third party). The same was arrived in CS(OS) 674/2017 and CS (OS) 675/2017 filed by Neena Khatri against the Defendant Nos. 1 & 2 in respect of the First Floor and Third Floor and terrace of the Suit Property.*
- (c) The Execution Petition was last listed on 08.07.2020 wherein final arguments were heard, and the Judgment*

has been reserved. The Plaintiff was not a party to the aforementioned proceedings but had appeared before the Hon'ble Court on that day informing the pendency of the present proceedings.

(d) Thereafter, on 10.07.2020, on an application filed by Neena Khatri, the Ld. Executing Court has observed that the possession of the Suit Property is with Neena Khatri and has issued show cause notice of contempt against the Defendant No. 1 & 2 herein."

5. Though there is no affidavit in support of the application as the plaintiff has sought exemption from filing the same, the plaintiff has joined the proceedings through video conferencing and is duly identified by the learned counsel for the plaintiff Ms. Gauri Puri. Plaintiff before this Court makes a categorical statement seeking leave to withdraw the suit.

6. Application is accordingly disposed of permitting the plaintiff to withdraw the suit.

7. Order be uploaded on the website of this Court.

CS(OS) 161/2020

Suit is dismissed as withdrawn with liberty as prayed for in view of the statement made by the plaintiff before this Court.

I.A. 5216/2020

I.A. 5217/2020

I.A. 5218/2020

Applications are dismissed as infructuous.

MUKTA GUPTA, J.

JULY 29, 2020

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