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

+ **RFA 792/2024**

NEERAJ BHAGAT & ORS.

.....Appellants

Through: Mr. Ankit Jain and Ms. Apurva Tyagi
and Mr. Aditya Chauhan, Advocate

versus

HONEY NARANG

.....Respondent

Through: Mr. Lal Singh Thakur, Mr. Sudhir
Tewatia, Mr. Anurag Sharma and Mr.
Rachit Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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19.11.2024

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 67223/2024 (exemption)

1. Allowed, subject to all just exceptions.

**RFA 792/2024 & CM APPL. 67224/2024 (for condonation of delay of
2110 in filing the appeal)**

2. The appellants have assailed judgment and decree dated 26.10.2018 whereby suit of the present respondent seeking specific performance of agreement to sell was decreed against the appellants.

3. Learned counsel for respondent on advance intimation appears and accepts notice.

4. In the course of submissions made today, learned counsel for appellants submitted that the impugned judgment and decree has also been



challenged under Order IX Rule 13 CPC and that application is pending. In response to a query as to whether the present appeal and the application under Order IX Rule 13 CPC can be heard parallelly before this Court and before the trial court, learned counsel for appellants placed reliance on order of the Hon'ble Supreme Court reported as 2023 SCC OnLine SC 1662. But the said order of the Hon'ble Supreme Court holds only that these are two concurrent remedies. That does not mean that both proceedings can run parallel to each other in the trial court and the appellate court though it is only a prima facie view subject to detailed deliberations.

5. However, learned counsel for respondent points out that the impugned judgment and decree are not *ex-parte* judgment and decree. According to the respondent, the application under Order IX Rule 13 CPC was filed only to protract the proceedings, despite the appellants knowing fully well that the decree was not *ex-parte* decree.

6. At this stage, learned counsel for appellants on instructions seeks permission to withdraw this appeal with liberty to file fresh appeal at appropriate stage, if the applications under Order IX Rule 13 CPC and Section 28 of the Specific Relief Act get dismissed.

7. Accordingly, the appeal and the accompanying applications are dismissed as withdrawn with liberty as sought.

GIRISH KATHPALIA, J

NOVEMBER 19, 2024/as

[Click here to check corrigendum, if any](#)