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

+ **CM(M) 249/2025**

M/S SETH ENTERPRISES PVT LTD

.....Petitioner

Through: Mr. Vidit Gupta & Mr. Trivesh
Sharma, Advs

versus

M/S NIMITAYA PROPERTIES LTD AND ORSRespondents

Through: Mr. Abhinav Mukherjee, Sr. Adv
with Mr. Sumit Gehlot, Mr. T. S.
Thakraon, Ms. Tanya Kaushit, Mr.
Raghav Chawala, Mr. Manorajan
Naryan, Ms. Archita Niyam, Advs

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **07.02.2025**

**CM APPL. 7421/2025 (Exemption) & CM APPL. 7422/2025
(Exemption)**

Allowed, subject to all just exceptions.

Both the applications stand disposed of.

CM(M) 249/2025 & CM APPL. 7420/2025 (Stay)

1. At the outset, learned senior counsel appearing for the respondents submits that the present petition is not maintainable under Article 227 of the Constitution of India. In support of his averments, learned senior counsel places reliance on the decisions of the Hon'ble Supreme Court in *Radhey Shyam and Anr vs Chhabi Nath & Ors* (2015) 5 SCC 423 and *Garment Craft vs Prakash Chand Goel* (2022) 4 SCC 181.



2. Learned counsel for the petitioner submits that the Trial Court has not followed the proper procedure in dealing with the application under Order XXXVIII Rule 5 CPC in as much as, issuing directions to the petitioner to file an affidavit of list of assets and properties amounts to conducting roving and fishing enquiry, which is not permissible under the law.
3. After part submissions, learned counsel for the petitioner seeks permission to this Court to withdraw the present petition.
4. The statement made by learned counsel for the petitioner is taken on record and the petition is dismissed as withdrawn.

RAVINDER DUDEJA, J

FEBRUARY 7, 2025

Sk/n