

ANAND DUTT SHARMA Vs. YOGESH KUMAR SHARMA
16.04.2026

At 11:21am

Present: Sh. Vinay Kumar, Ld. Counsel for plaintiff.
Sh. Anil Kumar Sharma, Sh. Narender and Sh.
Deepanshu, Ld. counsels for defendant.

Reply to the application under Order XXXVIII Rule 5 r/w Section 94(b) and 151 CPC filed on behalf of defendant on 15.04.2026. Copy supplied.

During the course of arguments, Ld. counsel for plaintiff, on instructions submits that plaintiff would be satisfied, if defendant be directed to deposit an amount of Rs.19 lakhs (paid as advance part sale consideration amount on 01.10.2024 and 05.10.2024) in a form of FDR in the name of this Court.

Ld. counsel for defendant submits that defendant is not liable to pay a single penny to plaintiff. He further submits that the amount of Rs.39 lakhs paid by plaintiff has been forfeited by defendant as per agreement. He further submits that defendant is not ready to deposit an amount of Rs.19 lakhs in a form of FDR. He further relied upon the judgment passed by the Hon'ble Supreme Court of India in '**K.R. Suresh Vs. R. Poornima and Ors.**', Civil Appeal No.582/2025, arising out of SLP(C) No.5630/2023 decided on 02.05.2025.

File perused.

As per plaint, plaintiff and defendant had entered into an agreement to sell dated 22.09.2024 in respect to built up property bearing No.10/126-A (Plot No.126, Block No.10), Area measuring 46.67 sq. yards i.e. 39.02 sq. meters, consisting whatsoever thereon

(2)

with roof rights and with the right to construct upto the last story, out of Khasra No.16, situated in the area of Village Karkardooma, in the Abadi of Vishnu Gali, Bhisham Road, Vishwas Nagar, Illaqa Shahdar, Delhi-32 for total sale consideration amount of Rs.1,87,00,000/-. Out of the aforesaid sale consideration amount, an amount of Rs.20 lakhs (Rs.3 lakhs in cash on 20.09.2024 and an amount of Rs.17 lakhs through cheque) had been paid by plaintiff to defendant as earnest money. It is further pleaded that thereafter, an amount of Rs.39,50,000/- was paid on different dates (i.e. 25.09.2024 an amount of Rs.13 lakhs through cheque, Rs.6 lakhs through cheque on 03.10.2024, an amount of Rs.50,000/- in cash on 06.10.2024 and Rs.20 lakhs in cash on 09.10.2024) as part sale consideration amount. Thereafter, an amount of Rs.19,50,000/- had also been paid in cash as part sale consideration amount on 07.11.2024. Plaintiff by way of present suit is seeking recovery of Rs.99 lakhs along with interest @ 18% per annum against defendant i.e. recovery of Rs.59 lakhs paid as advance sale consideration amount and Rs.40 lakhs i.e. double of the earnest money.

Defendant in his written statement has admitted the existence and execution of agreement to sell dated 22.09.2024. Defendants has also admitted that he has received an amount of Rs.20 lakhs as an earnest money. Defendant has further admitted in para No.7 of his written statement that he has received an amount of Rs.19 lakhs through RTGS from plaintiff.

The statement of account filed by plaintiff along with the plaint reflects that on 01.10.2024, an amount of Rs.13 lakhs and on 05.10.2024 an amount of Rs.6 lakhs was paid to defendant through banking channel. The said amount had been paid subsequent to the

(3)

agreement to sell dated 22.09.2024. Admittedly, the said amount has been credited in the account of defendant.

The aforesaid amount had been credited/paid to defendant as part sale consideration amount and not as an earnest money because the same has been paid subsequent to the agreement to sell and purchase dated 22.09.2024. It is not the case of defendant that after execution of agreement to sell and purchase dated 22.09.2024, a further agreement was entered between the parties vide which it was agreed that an amount of Rs.19 lakh (paid on 01.10.2024 and 05.10.2024) shall also be considered as an earnest money.

In the absence of any agreement, the amount of Rs.19 lakhs paid on 01.10.2024 and 05.10.2024 through banking channel to defendant shall be considered as part sale consideration amount. The agreement to sell dated 22.09.2024 does not stipulate any condition which authorized/gave right to defendant to forfeit the amount paid by plaintiff as part sale consideration amount subsequent to execution of agreement to sell dated 22.09.2024. The amount paid as part sale consideration amount subsequent to execution of agreement to sell dated 22.09.2024 cannot be forfeited.

In '*K.R. Suresh Vs. R. Poornima and Ors.*', the Hon'ble Supreme Court has allowed the forfeiture of advance money/earnest money and not of the part sale consideration amount paid subsequent to the agreement. The facts of the judgment K.R. (Supra) is not applicable to the facts and circumstances of the present suit.

In view of the above observations, this Court is of the considered view that defendant cannot forfeit an amount of Rs.19 lakhs which has been paid as part sale consideration amount subsequent to the agreement to sell and purchase dated 22.09.2024 and therefore, **he is directed to deposit an amount of Rs.19 lakhs in a**

(4)

form of FDR in the name of this Court (District Judge-04, Shahdara District, Karkardooma Courts, Delhi) within 03 months from today.

Plaintiff and defendant are directed to file their respective affidavit of admission and denial of documents within 30 days, if not filed.

Parties are directed to produce original documents on NDOH. Parties are also directed to file proposed issues, if any.

Parties are also directed to appear in person on NDOH for the purpose of admission and denial of documents and recording of their statements under Order X CPC, if required.

Put up for admission and denial of documents and framing of issues on 29.07.2026.

Date is given as per the convenience of Ld. counsels.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
16.04.2026