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

+ **RFA 143/2025**

ASHUTOSH KUMAR MATHURAppellant

Through: Mr. K.K. Sharma, Advocate

versus

PANKAJ GARGRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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17.02.2025

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

CM APPL. 9345/2025 (exemption)

1. Allowed, subject to all just exceptions.

RFA 143/2025, CM APPL. 9343/2025 (for summoning trial court record), CM APPL. 9344/2025 (for filing lengthy synopsis and list of dates), CM APPL. 9346/2025 (for additional documents) & CM APPL. 9342/2025 (stay)

2. The appellant has assailed judgment and decree of recovery of money. As pleaded by the present respondent (*plaintiff*) before the trial court, the present appellant (*defendant*) executed agreement to sell an immovable property in favour of one Shri Mahender Nath Dubey, clerk of the respondent. As further pleaded by the present respondent in the plaint itself, the present respondent is a practicing advocate and it is at his request that the agreement to sell was executed between the respondent and Shri Dubey, who is clerk of the respondent. It was further pleaded on behalf of



respondent before the trial court that in accordance with the agreement to sell, the present respondent paid money but the agreement to sell was executed in favour of his clerk. Subsequently, even sale deed upon payment of complete sale consideration was executed in favour of Shri Dubey at request of the respondent only. Thereafter, the respondent filed a suit for recovery of money against the appellant. Paragraph 4 of plaint at *pdf page* 96 deals with the relevant pleadings.

3. In this backdrop, operation of the impugned judgment and decree shall remain stayed till next date. In view of peculiar circumstances of this case, which reflect that the appellant has already lost the property by getting the sale deed registered in favour of clerk of the respondent and now appellant faces a decree for recovery of that money, directions to deposit the decretal amount under Order XLI Rule 5 CPC are not issued. Even otherwise, it is informed by learned counsel that the entire decretal amount has already been deposited before the trial court.

4. Subject to the appellant taking steps within one week, notice be issued to respondent through all modes, returnable on 06.08.2025 before Registrar.

GIRISH KATHPALIA, J

FEBRUARY 17, 2025/rk

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