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

+ **CS(COMM) 175/2019**

TCA SURVEYORS AND ADVISORS PVT. LTD. Plaintiff

Through: Mr. Anurag Jain with
Ms. Ayushi Sharma, Advs.

versus

UNITED NEWS OF INDIA & ANR

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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04.04.2019

IA No. 4941/2019(for exemption).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

IA No.4942/2019(for condonation of delay)

3. Subject to just exceptions, delay in refiling is condoned and the application is disposed of.

CS(COMM) 175/2019 & IA No.4940/2019(u/O.XXXIXR.1 & 2 CPC)

4. The plaintiff has sued for specific performance of an agreement with the defendant no.1 with respect to immovable property and in the alternative for recovery of amounts paid to the defendant no.1 together with interest.
5. In my opinion, the plaintiff, on the basis of averments in the plaint, has no claim for specific performance.
6. The counsel for the plaintiff seeks time to obtain instructions.

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7. If the instruction is to give up the relief of specific performance, the amended plaint confining the claim in the suit to recovery of monies be also filed before the said date inasmuch as it is felt that even if the plaintiff gives up the claim for specific performance but summons of the suit as far as for the relief of recovery of money are issued along with the existing plaint, it would cause confusion and delay in disposal of the suit.
8. The plaintiff to, on the next date of hearing, also explain as to how the defendant no.2 Poddar Projects Limited, which had initially entered into the agreement with the defendant no.1 and whose assignee the plaintiff claims to be, is a necessary and proper party to the suit.
9. On request, list on 26th April, 2019.

RAJIV SAHAI ENDLAW, J

APRIL 04, 2019
ak..

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