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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 391/2024 and I.A. 10885/2024, 10886/2024**
RAVI BALYAN & ANR. Plaintiffs
Through: Mr. Pradeep Kumar Saini, Adv.

versus

DUSHYANT KUMAR & ORS. Defendants
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **14.05.2024**

1. This hearing has been done through hybrid mode.

I.A. 10886/2024 (for delay)

2. This is an application for condonation of delay of 14 days in re-filing the suit. For the reasons stated therein, the delay in re-filing the suit is condoned. Application is disposed of.

CS(OS) 391/2024

3. Let the plaint be registered as a suit.

4. Issue summons to the Defendants through all modes upon filing of Process Fee.

5. The summons to the Defendants shall indicate that the written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

6. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any,



filed by the Plaintiffs, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiffs, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

7. List before the Joint Registrar for marking of exhibits on 6th August, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

8. List before Court on 15th July, 2024.

I.A. 10885/2024 (u/O XXXIX Rules 1 & 2 CPC)

9. The present suit is filed on behalf of the Plaintiffs-Mr. Ravi Balyan and Avighna Homes Pvt. Ltd. The Plaintiffs vide the present suit are *inter alia* seeking a decree for specific performance of the agreement to sell dated 22nd September, 2021(*hereinafter*, 'sale deed'). Further, the Plaintiffs are also seeking a decree of permanent injunction. The reliefs in the present suit are sought with respect to property being-16 bigha and 11 biswa in khasra no. 14/22 (4-11), 23 (4-16), 23//3 (4-16) and 4/2 (2-08) situated in the revenue estate of village Palla, Delhi (*hereinafter*, 'suit property').

10. The background of the case as stated in the plaint is that the Plaintiff No. 1 acting on behalf of Plaintiff No. 2 and the Defendants entered into an agreement to sell dated 22nd September, 2021 for the sale of ½ share of Defendants in the suit property for a consideration of Rs.3,79,27,100/-. At the time when the agreement was executed, a sum of Rs.50,00,000/- is stated to have been paid by the Plaintiff vide receipt dated 22nd September, 2021.

11. It is the case of the Plaintiff that it was agreed between the Plaintiffs and the Defendants that the Defendants would settle their share in the suit property with other co-owners and subsequently would obtain a No



Objection Certificate, pursuant to which the balance consideration of Rs. 3,29,27,100/- would be paid and the sale deed would be executed. However, the Defendants on 18th June, 2022 issued a notice claiming that the amount of Rs. 50,00,000/- paid by the Plaintiff per the sale deed stands forfeited. At that time, meetings were held between the parties and another sum of Rs.50,00,000/- is stated to be paid to the Defendants by the Plaintiffs.

12. It is stated that the Plaintiffs have also purchased stamp papers of more than Rs.5,00,000/- for execution of the final sale deed. However, the Defendants have refused to execute the said sale deed. Currently, the Plaintiffs apprehend that the Defendants are likely to create third party interest despite agreement to sell being operational.

13. Let the Defendants file reply to the application within a period of four weeks. Rejoinder be filed within two weeks, thereafter.

14. List before the Joint Registrar on 6th August, 2024.

15. List before the Court on 15th July, 2024.

PRATHIBA M. SINGH, J.

MAY 14, 2024

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