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

+ **RFA 358/2022 & CM APPL. 34272/2022 (Stay)**

ANAND

..... Appellant

Through: Mr. Sanjeev Ralli, Sr. Advocate with
Ms. Ashu Arora, Mr. Piyush Mohan
Dwivedi, Mr. Ravi Kant Yadav and
Ms. Deepika Singh, Advocates

versus

SUBE SINGH & ORS.

..... Respondents

Through: Mr. Parvinder Chauhan and Mr.
Sushil Dixit, Advocates for R-1&2
Mr. Bhuvan Mishra, Advocate for R-
3&4

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

ORDER

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17.08.2022

CM APPL. 34273/2022 & CM APPL. 34375/2022 (Exemption)

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

RFA 358/2022

The appellant in the present appeal is impugning the judgment dated 29.04.2022 passed by the learned Additional District Judge-02, South West District, Dwarka Courts Complex, Delhi in CS DJ ADJ No.16241/2016 titled as **Anand Vs. Sube Singh & Ors.** whereby the learned Trial Court has dismissed the suit filed by the appellant for the specific performance of the agreement to sell dated 04.02.2006 as well as for permanent injunction and



in alternate decree of damages of Rs.25,30,000/- with cost.

Learned senior counsel for the appellant submits that the learned Trial Court has ignored the law of evidence in respect to the manner in which the documents are to be proved on record. The learned Trial Court has failed to appreciate that the appellant and the witness DW5, Mr. Yograj Yadav categorically stated that the agreement between them was cancelled, and an affidavit Ex. PW1/6 dated 14.01.2008 was executed by Mr. Yograj Yadav. The learned Trial Court ignored this testimony and relied upon documents Mark A to E. The original of these documents were never produced before the learned Trial Court. It is the submission of the learned senior counsel for the appellant that the learned Trial Court based on these documents which were not proved on record, erroneously assumed that respondents No. 3 & 4 are the assignees of the appellant.

It is further stated by learned senior counsel for the appellant that the defendants failed to produce Mr. R. K. Bhutani in the witness box.

In view of the submission made by learned senior counsel for the appellant, this matter requires consideration.

Issue notice.

Learned counsel appearing on behalf of respondents No.1 & 2 and 3 & 4 accept notice.

List on 21.11.2022.

CM APPL. 34272/2022 (Stay)

Issue notice.

Learned counsel appearing on behalf of respondents No. 1 & 2 and 3 & 4 accept notice.



Let reply be filed within four weeks. Rejoinder thereto, if any, be filed before the next date of hearing.

List on 21.11.2022.

GAURANG KANTH, J

AUGUST 17, 2022/ms