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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 365/2024 & CM Appls.32199-00/2024**

RAJINI JAINAppellant

Through: Ms. Kirti Mewar, Adv.

versus

NITIN KUMAR AGGARWAL AND ORSRespondents

Through: Ms. Meghna Mishra, Ms. Shriya Misra
and Ms. Rashi Bajpayee, Advs. for R-
3.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **24.07.2024**

CM Appl.39373/2024[Seeking clarification]

1. This is an Application filed on behalf of the Appellant seeking clarification of the order dated 28.05.2024 passed by this Court.
2. None appears for Respondent No.2. No Reply has been filed either.
- 2.1 The Appellant seeks no relief from Respondent No.1 since the matter has already been settled *inter se* the Appellant and the Respondent No. 1.
3. The present Appeal impugns Judgment and Decree dated 25.01.2024 passed in CIV DJ No.13093/16 by learned ADJ-07, Tis Hazari Courts, West District, Delhi. The Appellant had filed a Suit for specific performance, declaration, perpetual injunction and damages against the Respondents with respect to the subject property. The said Suit was decreed by the learned Trial Court in favour of the Appellant directing the Respondents to pay a sum of Rs.75,00,000/- along with *pendente lite* and future interest.
- 3.1 It is the contention of learned Counsel for the Appellant that the learned Trial Court erred in not allowing the prayer for specific performance of the Appellant and rejecting the relief sought by the Appellant.



4. This Court by its order dated 28.05.2024 had issued Notice in the Appeal and granted interim relief to the Appellant by staying the operation of the Impugned Judgment and Decree subject to depositing Rs.75,00,000/- before the Registrar General of this Court within a period of one week.

5. Learned Counsel for the Appellant submits that the Impugned Order contains an inadvertent error since the relief as prayed by the Appellant was with respect to the specific relief, however, the Impugned Order had directed payment of compensation to the Appellant/Plaintiff in lieu of specific performance. Thus, there was no payment required to be deposited by the Appellant and the Appellant was in fact to receive monies from the Respondent No. 2.

6. Learned Counsel for Respondent No.3 affirms this position and further submits that Respondent No.2 has also challenged the Impugned Judgment before this Court which is pending as RFA281/2024. In the said matter, this Court on 01.05.2024 directed the Respondent to deposit the said sum of Rs. 75 lakhs.

7. In view of the foregoing discussions, paragraph 5 of the order dated 28.05.2024 is modified to read as under:

“5. This Court is of the considered view that the matter requires consideration. Accordingly, till the next date of hearing, Respondent No.2 is restrained from creating any third party rights, alienating or disposing of the share of Respondent No.2 in the property being 522 sq. meters (624 sq. yards) Land situated at Khasra No. 20/17 adjoining plot No. J-13/18 of Village Titarpur, now known as Rajouri Garden, New Delhi”

8. The Application is accordingly allowed.

RFA 365/2024 & CM Appls.32199/2024/Stay/

9. Registry is directed to place on record the digital copy of the Trial Court



Record duly paginated and book-marked in accordance with the rules of the High Court.

10. List on the date already fixed i.e., 14.08.2024.
11. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 24, 2024/r

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