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

+ RFA 226/2018, CM APPL. 8444/2018 & CM APPL. 8445/2018

AMIT KUAMR AGARWAL & ORSAppellants

Through: Ms. Diksha Kakkar and Mr. Ravindra Kumar, Advs.

versus

HAJI ALLAUDDIN & ORSRespondents

Through: Mr. Maroof Ahmad, Adv. for Bahar-u-Barqi, Adv. for LRs of deceased R-1 & 2.

Mr. Amit Gupta, Adv. for R-5.

Ms. Priyanka Rani, Adv. for Mr. Kumar Vivek, Adv. for R-11, 12, & 13.

Mr. Neeraj Grover, Mr. Kashish Vij, Mr. Angad Deep Singh and Ms. Mohana Sarkar, Advocates for R-15.

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+ RFA 252/2018 & CM APPL. 9777/2018

SURAJ PRAKSH AGGARWAL (DECEASED)

THR LRSAppellant

Through: Mr. Amit Gupta, Adv.

versus

HAJI ALLAUDDIN & ORSRespondents

Through: Mr. Maroof Ahmad, Adv. for Bahar-u-Barqi, Adv. for LRs of deceased R-1 & 2.

Ms. Priyanka Rani, Adv. for Mr. Kumar Vivek, Adv. for R-3(b), (c) & (d).

Mr. Neeraj Grover, Mr. Kashish Vij, Mr. Angad Deep Singh and Ms. Mohana Sarkar, Advocates for R-4(b).

Ms. Diksha Kakkar and Mr. Ravindra Kumar, Advocates for



R-5.

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+ RFA 360/2018, CM APPL. 17332/2018
SOM PRAKASH AGGARWALAppellant

Through:

versus

HAJI ALLAUDDIN & ORSRespondents

Through: Mr. Maroof Ahmad, Adv. for
Bahar-u-Barqi, Adv. for LR's of
deceased R-1 & 2.

Mr. Neeraj Grover, Mr. Kashish
Vij, Mr. Angad Deep Singh and
Ms. Mohana Sarkar, Advocates
for R-4(b).

Mr. Amit Gupta, Adv. for R-5.
Ms. Diksha Kakkar and Mr.
Ravindra Kumar, Advocates for
R-6.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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23.05.2025

CM APPL. 15259/2025 IN RFA 360/2018

1. This application has been moved on behalf of the respondent No. 4B, namely, Atul Aggarwal under Order 23 Rule 1A read with Order 1 Rule 10(2) and Section 151 Code of Civil Procedure, 1908 (CPC) to transpose him as an appellant in the present matter.

2. Apart from this RFA No. 360/2018, the other two RFAs i.e. 226/2018 and RFA 252/2018 also assail the common judgment and decree dated 31.10.2017 and 03.11.2017 which have been passed in a suit for specific performance.

3. It appears that the appellant in RFA No. 360/2018 has not been appearing for some time, which have led to filing of the present appeal. Apparently, the disposal in the present appeal is getting



delayed for want of appearance of appellant in RFA No. 360/2018. Except for respondent No. 1, the remaining respondents have no objection if the said application is allowed.

4. Learned counsel for the respondent No. 1 has urged that the ingredients of Order 23 Rule 1A of the CPC are not satisfied inasmuch as the appeal has neither been withdrawn nor abandoned by the appellant/plaintiff.

5. While there is no explicit overt act by the appellant indicating an intention to withdraw or abandon the appeal, his continued absence from the past three years, and failure to pursue this appeal raises an inference that the appeal has effectively been abandoned. No prejudice shall be caused to respondent No. 1 in case the present application is allowed.

6. Accordingly, applicant/respondent No. 4B is transposed as appellant in the present matter.

7. Let an amended memo of parties be filed.

8. The pleadings are complete. The detailed TCR has since been received.

RFA 226/2018

9. It appears that the detailed TCR has since been received, which is lying in RFA No. 226/2018.

10. Let the matter be listed for final hearing. Learned counsel for the parties shall be at liberty to file written submissions within four weeks from today, if not already filed.

11. Re-notify on 04.09.2025.

DHARMESH SHARMA, J.

MAY 23, 2025/akc /sg