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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 465/2022 & CM APPL. 42109/2022 -Delay 93 days.
RAJIV JAIN

..... Appellant
Through: Mr. Rama Shankar and Mr. Akshat
Aggarwal, Advs.

versus

ADITI GUPTA & ORS.

..... Respondent
Through: Mr. Amand Bhardwaj, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

% **ORDER**
23.09.2022

CM APPL. 42110/2022

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

RFA 465/2022 & CM APPL. 42109/2022 (delay of 93 days)

3. The appellant has approached this Court assailing the judgment and decree dated 10.11.2022 passed by the learned ADJ, East District, Karkardooma Courts, in counter claim to CS No. 352/2019. Vide the impugned judgment, the learned Trial Court has dismissed the counter claim preferred by the appellant seeking specific performance of the agreement to Sell dated 23.11.2001 as being barred by limitation.
4. Learned counsel for the appellant submits that the learned Trial Court, while rejecting the appellant's counter claim, has failed to appreciate that by their conduct, the parties had extended the time for execution



of the sale deed and, therefore, the appellant's claim seeking specific performance of the Agreement to Sell could not be said to be barred by limitation. In support of his plea, he seeks to place reliance on the decision dated 19.07.2013 of a Coordinate Bench of this Court in **"L.M.Nagpal and Ors. vs. Fatehji & Co. and Ors."**, RFA 350/1997.

5. Issue notice. Mr. Aman Bhardwaj accepts notice on behalf of the respondents. He prays for and is granted four weeks' time to file reply to the applications. Rejoinders thereto, if any, be filed within four weeks, thereafter.
6. List on 23.02.2023.

REKHA PALLI, J

SEPTEMBER 23, 2022

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