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

+ **CS(OS) 603/2022 & I.A. 15969/2022**

SMT RASHMI KATYAL

.....Plaintiff

Through: Mr. Varun Sharma and Ms. Mallika
Luthra, Advocates with Mr. Sanjay
Katyal, Husband of the plaintiff

versus

SMT CHANDER KANTA

.....Defendant

Through: Defendant (in person) with her
husband Mr. Dharam Vir Dhingra

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 27.08.2024

1. This suit has been filed by the plaintiff seeking specific performance of the agreement to sell dated 04.08.2021 with respect to property bearing no. B-IV/24, First Floor, Old Double Storey, Lajpat Nagar, New Delhi ('suit property') which is specifically shown and marked as 'red' in the site plan.
2. The defendant who is present in Court along with her husband Mr. Dharam Vir Dhingra, states that she is ready and willing to perform the said agreement and execute the sale deed in favour of the plaintiff.
3. Learned counsel for the plaintiff appears along with Mr. Sanjay Katyal, husband of the plaintiff, who is present in Court. He states that the plaintiff is not in a financial position to purchase the suit property as neither the plaintiff nor Mr. Sanjay Katyal have the requisite funds for payment of the balance amount of Rs. 1.80 crores.
4. In the opinion of this court, in view of the admitted position that the



plaintiff does not have the requisite funds to perform the said agreement to sell, therefore, the relief sought in the present suit for specific performance does not survive for consideration and accordingly, the relief sought at prayer clause 'a' is hereby, dismissed.

5. Learned counsel for the plaintiff along with Mr. Sanjay Katyal, states that while plaintiff is satisfied with the dismissal of prayer 'a' of the plaint since he/she has no funds to perform the agreement to sell dated 04.08.2021, he states that, however, an amount of Rs. 20 lakhs which has been paid to the defendant towards advance ought to be refunded to him. He states that plaintiff does not pray for award of interest on the said refund.

6. The defendant who appears in person seeks an adjournment by two weeks to address arguments on the alternative prayer 'b' for refund sought in the plaint.

7. At request of the defendant, adjourned to 12.09.2024,

8. Registry is directed to list the matter in the '*Supplementary List*'.

9. It is made clear that no adjournment will be granted to either party on the next date of hearing.

MANMEET PRITAM SINGH ARORA, J

AUGUST 27, 2024/msh/ms

Click here to check corrigendum, if any