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

+ CS(OS) 631/2014

SANDIP SOMANY & ANR

..... Plaintiffs

Through

Mr.Manav Gupta, Ms.Esha Dutta &
Mr.Sahil Garg, Advs.

versus

RAM NIWAS JINDAL & ORS

..... Defendants

Through

Mr.Avinash Trivedi, Adv. for D-1.
Mr.Anubhav Agarwal, Adv. for D-2
& D-3.
Mr.Anil Kumar, Adv. for D-4

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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30.11.2017

I.A.No.9557/2017

Learned counsel for the plaintiffs prays that issues may be framed and a local commissioner may be appointed to record the evidence at the expenses of the plaintiffs so as to expedite the matter and adjudication of the disputes between the parties.

In view of the above submission, the learned counsel for the plaintiffs states that without prejudice to their rights and contentions, for the time being, the plaintiffs do not press the present application. The present application is dismissed as not pressed.

I.A.No.15230/2015

In this application, a partial decree was passed on 06.09.2016. In view of the above, the learned counsel for the plaintiffs states that without



prejudice to their rights and contentions, for the time being, the plaintiffs do not press the present application.

CS(OS) 631/2014

A perusal of the documents shows that bulk of the documents relate to the Pleadings/Complaints/FIR etc. which have been lodged/filed between the parties on previous occasions. Issues can hence be framed even without admission and denial of the documents.

The following issues are framed:

- (i) Whether the defendants have committed illegal acts or omission and commission jointly and severely or individually pursuant to or on account of the execution of the agreements to sell dated 14.07.2008 and 10.10.2008 regarding the property at Karnal Road, Haryana causing loss or damages to the plaintiffs? OPP
- (ii) If the answer to issue No.(i) above is in the affirmative, what amount of damages if any has been suffered by the plaintiffs? OPP
- (iii) If damages have been suffered by the plaintiffs, whether the defendants would be liable to pay the said damages? If so, which of the defendants would be so liable? OPP
- (iv) Relief.

The parties will file their affidavits by way of admission and denial of the documents within three weeks from today.

Mr.Kunal Sharma, Advocate (Mobile 9910200911) is appointed as the local commissioner to record the evidence of the parties. His fee is fixed at Rs.50,000/-. In addition, he will be paid a sum of Rs.5,000/- per hearing.



The evidence shall be recorded within the premises of the High Court. In addition, a sum of Rs.500/- shall also be paid to the staff member deputed by the court to bring the court file. Miscellaneous expenses shall also be paid to the local commissioner. Initially the burden of fees and expenses shall be borne by the plaintiffs subject to award of cost in the suit at the time of passing of final judgment.

The parties will file their list of witnesses within three weeks from today. The plaintiffs shall also file their affidavit by way of evidence within three weeks thereafter.

List before the local commissioner on 22.01.2018.

The local commissioner is requested to expeditiously complete the recording of the evidence of the parties. Any attempt by any of the parties to stall or delay of the proceedings should not be allowed. It is made clear that the schedule fixed will not be changed.

The attention of this court has been drawn to the order dated 05.11.2015 where it was noted that the costs of Rs.12,000/- have till date not been paid by defendant No.4 which were imposed on account of the delay in filing of the written statement. Costs have still not being paid. It is made clear that if the costs are not paid on or before 22.01.2018, the written statement of the defendant No.4 shall be taken of the record.

In the meantime, the plaintiffs may file a replication to the written statement filed by the defendant No.4.

List in court on 07.05.2018.

JAYANT NATH, J.

NOVEMBER 30, 2017/v