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

+ **CS(OS) 680/2023 I.A. 25825/2023**

**SANJAY GUPTA**

.....Plaintiff

Through: Mr. Chand, Adv. for Mr. Varun Jain,  
Adv.

versus

**GULSHAN KUMAR DUA & ANR.**

.....Defendants

Through: Ms. Monika Goel and Ms. Kajal Pal,  
Advs. alongwith defendants in-  
person.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

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**28.01.2025**

**I.A. 25825/2023 (Application under Order VI Rule 17 read with Section 151 of CPC)**

1. This application has been filed under Order VII Rule 11 of the Code of Civil Procedure 1908, by defendant nos.1 and 2, seeking rejection of the suit *inter alia* on the basis that the cause of action does not subsist.
2. The suit was filed for specific performance of an alleged Agreement to Sell dated 23<sup>rd</sup> September 2020, executed between the plaintiff and defendant no.1.
3. The consideration in the said Agreement to Sell was *Rs.3.75 Crores* for a property situated at *Kamla Nagar, Delhi*. The Agreement to Sell stated that plaintiff had paid a sum of *Rs.35 Lacs* in cash as earnest money on 23<sup>rd</sup> September 2020. The rest of the balance amounts were to be paid in two instalments on 15<sup>th</sup> December 2020 and 31<sup>st</sup> January 2021.
4. Counsel for the defendant states that only the signatures have been



admitted on the Agreement to Sell but not its contents.

5. As regards the receipt of *Rs.35 Lacs* in favour of defendant no.1, the same position is taken by counsel for defendant no.1.

6. There is yet another receipt of *Rs.90 Lacs* purportedly received by defendant no.2, the *son of defendant no.1*.

7. However, it is submitted by the counsel for the defendant that a legal notice was sent 3 years later, only on 16<sup>th</sup> August 2023, and, therefore, there was no readiness and willingness on the part of plaintiff to culminate the agreement, if at all.

8. Written submissions have been filed by the defendant and are on record.

9. Time had been given to plaintiff to file written submissions; however, they have chosen not to file the same and, therefore, the right for the same is closed.

10. Counsel for plaintiff is appearing through VC and will be present in Court on the next date of hearing to respond to the submissions of defendant.

11. List on 29<sup>th</sup> April 2025.

12. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**JANUARY 28, 2025/MK/tk**