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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. Varun Jain, Adv.

versus

GULSHAN KUMAR DUA & ANR. .....Defendants

Through: Ms. Monica Goel and Mr. Ashutosh Shrivastava, Advs
D-1 and D-2 (in person)

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

O R D E R

% **29.04.2025**

1. The plaintiff has produced before this Court the original of the agreement to sell and purchase dated 23.09.2020 ('ATS'). The original of the agreement has been shown to the defendants who are present in Court.

2. Defendant no. 1 and defendant no. 2 are present in Court.

3. Defendant no. 1 has admitted his signature at points B-1, B-2 and B-3 of this agreement. So also, defendant no. 2 has admitted his signatures at points A-1 and A-2 of this agreement.

4. Learned counsel for the defendants states on instructions from the defendants that they admit that it was this ATS which was executed between the parties.

4.1. She however, states on instructions from defendant no. 2 that he has not received the amount of Rs. 90 lakhs even though his signatures are affixed on a revenue receipt under the said amount.

4.2. She states that defendant no. 1 had only received a sum of Rs. 35

lakhs in cash and this amount of Rs. 35 lakhs was returned by defendant no. 1 by way of cash in or around November, 2022.

5. The original of the ATS has been retained and the registry is directed to keep the same in a sealed cover.

6. In view of the aforesaid position, it would be relevant to refer to the recent decision of the Hon'ble Supreme Court in **The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Another**[1] wherein the Supreme Court has issued the following directions to Civil Courts with respect to matters, where the parties pleaded payment in cash beyond Rs. 2 lakhs. The relevant portion reads as under:

> "**18.1**. Further, through the averments made in the plaint and in the agreement, the respondents/plaintiffs have claimed to have paid huge sum towards consideration by cash. It is pertinent to recall that Section 269ST of the Income Tax Act, was introduced to curb black money by digitalising the transactions above Rs.2,00,000/-and contemplating equal amount of penalty under Section 271DA of the Act. As per the said provisions, action is to be taken on the recipient. However, there is also an onus on the plaintiffs to disclose their source for such huge cash. The Central Government thought it fit to cap the cash transactions and move forwards towards digital economy to curb the dark economy which has a drastic effect on the economy of the country.
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> … …
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> When a suit is filed claiming Rs.75,00,000/- paid by cash, not only does is create a suspicion on the transaction, but also displays, a violation of law. Though the amendment has come into effect from 01.04.2017, we find from the present litigation that the same has not brought the desired change. When there is a law in place, the same has to be enforced. Most times, such transactions go unnoticed or not brought to the knowledge of the income tax authorities. It is settled position that ignorance in fact is excusable but not the ignorance in law. Therefore, we deem it necessary to issue the following directions:

[1] In Civil Appeal No. 5200/2025 (Arising from SLP (C) 13679/2022

(A) **Whenever, a suit is filed with a claim that Rs. 2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any**,
(B) Whenever, any such information is received either from the court or otherwise, the Jurisdictional Income Tax authority shall take appropriate steps by following the due process in law,
(C) Whenever, a sum of Rs. 2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority who shall follow the due process in law before taking any action,
(D) Whenever, it comes to the knowledge of any Income Tax Authority that a sum of Rs. 2,00,000/- or above has been paid by way of consideration in any transaction relating to any immovable property from any other source or during the course of search or assessment proceedings, the failure of the registering authority shall be brought to the knowledge of the Chief Secretary of the State/UT for initiating appropriate disciplinary action against such officer who failed to intimate the transactions."

7. Learned counsel for the plaintiff states that the plaintiff is a property dealer and he has a PAN number. He states that he will place on record within one (1) week, the details of his PAN number and his concerned Assessing Officer.

8. The learned Joint Registrar (J) is directed to refer this matter to the Assessing Officer of the plaintiff and the said Assessing Officer is directed to verify if the plaintiff had in his power and possession a sum of Rs. 1,25,00,000/- for making payment in cash in the year 2020, in terms of the directions contained in the aforenoted judgment of the Supreme Court.

9. Let the verification report of the Assessing Officer be placed on record within eight (8) weeks.

10. List before the learned Joint Registrar (J) on 27.05.2025.

11. Interim orders to continue.

12. Copy of this order be sent to Mr. Shlok Chandra the standing counsel Income Tax for information and compliance.

13. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

APRIL 29, 2025/msh/ms