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

+ **RFA 58/2020**

SUBHAGYA WATI (DECEASED) THR LRS & ORS

..... Appellants

Through : Mr.Gopal Dutt Sharma, Advocate.

versus

ASHA KHANNA & ORS

..... Respondents

Through : None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% 27.01.2020

CM APPL No.3280/2020

For the reasons mentioned in the application, the delay of 09 days in refiling the appeal stands condoned.

The application stands disposed of.

RFA 58/2020 & CM APPL No.3279/2020

This appeal is against the judgment dated 24.09.2019. Admittedly the agreement to sell dated 1996 was entered by Sh.K.L.Khattar, the husband of Smt.Subhagya Wati, who is the mother Sh.Subhash Khattar (appellant no.2) in this appeal.

Admittedly the agreement to sell dated 15.11.1996 between the parties was for a sum of Rs.4.50 lacs. The agreement to sell notes the respondent had paid an amount of Rs.4.50 lacs vide a cheque dated 15.11.1996 drawn on Punjab National Bank, Rajendar Nagar, New Delhi. Further he paid an amount of Rs.5,000/- vide a receipt dated

16.11.1996 on record. This fact is noted by the learned Trial Court to say the entire consideration was paid and there was nothing left for the respondent to do. It is alleged the subject property actually belong to L& DO and when the appellant had received a letter in 2005 from the respondent for compliance of certain formalities, the respondent filed suit for specific performance to which a counter claim was filed by the appellant claiming possession and damages. Admittedly the appellant never filed any suit between 1996 till 2005 for cancellation of agreement to sell and it was only when the respondent has filed this suit for specific performance, the appellants alleged knowledge of transaction dated 1996 and filed a counter claim, which did not find favour with the learned trial court.

Issue notice to the respondents through all modes returnable on 14.07.2020 and in the meanwhile Trial Court Record be requisitioned prior to the next date of hearing.

YOGESH KHANNA, J.

JANUARY 27, 2020

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