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

+ **RFA 559/2024, CM APPLs. 49807-09/2024**

JAGDISH CHANDER

.....Appellant

Through: Mr. Md. Shahid Anwar and Mr.
Mohd. Shahzeb Khan, Advocates

versus

PUKHRAJ SINGH

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **29.08.2024**

CM APPL. 49808/2024*[Exemption from filing certified copies]*

1. Allowed, subject to just exceptions.
2. The Application is disposed of accordingly.

RFA 559/2024, CM APPLs. 49807/2024*[Application for passing decree of permanent injunction]* **and 49809/2024***[Condonation of delay]*

3. The present Appeal impugns the Judgment dated 15.03.2024 [hereinafter referred to as 'Impugned Judgment'] passed by the learned Additional District Judge-03, South West District, Dwarka Court, New Delhi [hereinafter referred to as 'Trial Court']. By the Impugned Judgment, the suit for specific performance and injunction filed by the Appellant/Plaintiff has been dismissed by the learned Trial Court.
4. Learned Counsel for the Appellant submits that one of the main contentions for the dismissal of the suit was that the Appellant was unable to show his financial capacity in the present case.



4.1 Learned Counsel for the Appellant submits that the Appellant and the Respondent had entered into the Agreement to Sell for Rs. 15 lakhs and admittedly Rs. 12 lakhs had already been paid by him to the Respondent. He further submits that he had also prepared a bank draft in the sum of Rs.1 lakh and was carrying Rs. 2 lakhs in cash for making payment to the Respondent. However, the learned Trial Court held that the story of cash is unreliable as there was not enough money in the bank account of the Appellant.

4.2 Learned Counsel for the Appellant submits that the Appellant is running his own business of repair of computer and related products and even at that time he had sufficient earnings in cash. He submits that he can file requisite documents evidencing the same. However, since no issue was framed by the learned Trial Court with regard to his possessing the requisite funds, these documents were not filed before the learned Trial Court.

5. Learned Counsel for the Appellant requests for an accommodation to file an appropriate Application to bring these documents on record.

6. List on 19.11.2024.

TARA VITASTA GANJU, J

AUGUST 29, 2024

g.joshi

Click here to check corrigendum, if any