



\$~O-54

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

+ **CS(OS) 1782/2014 & I.A. 14350/2018**

**M/S KUSHAL INFRAPROJECT INDUSTRIES INDIA LTD**

.....Plaintiff

Through: Mr. Pratham Sharma, Adv.

versus

**SURESH KUMAR & OTHERS**

.....Defendants

Through: Mr. Rajbir Singh Ruhil, Adv. for R-1,  
2 & 4.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**ORDER**

% **20.05.2025**

**I.A. 16767/2022 (under Section 151 for permission to withdraw the application under Order XXXIX rule 1 & 2 r/w Section 151 of CPC)**

**I.A. 14350/2018 (under Order XXXIX rule 1 & 2 r/w Section 151 of CPC)**

1. None has appeared to press these applications. The same are accordingly, dismissed for want of prosecution.

**I.A. 35439/2024 (filed by defendant Nos.1 to 5 under Order XXXIX Rule 4 of CPC)**

1. Learned counsel appearing for defendant Nos.1 , 2 and 4 submits that *vide* order dated 23.08.2018, the Court while directing the parties to attend the proceedings before the Mediator has observed that in the meantime, the *status quo* with respect to the suit property shall be maintained. He, therefore, contends that admittedly the plaintiff has only made the minuscule

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*

*The Order is downloaded from the DHC Server on 23/05/2025 at 13:00:24*



payment of Rs.4 Lakhs towards advance against the total consideration of Rs.9,75,93,750/-.

2. Learned counsel also contends that since the defendants are in dire need of money and *prima facie case, balance of convenience and irreparable loss* does not lie in favour of the plaintiff, therefore, the Court may consider to vacate the said order.

3. Learned counsel appearing for the plaintiff, on the other hand, contends that the order dated 23.08.2018 was not passed on his application rather the same was passed on an application filed by defendant No.6- Sarthak homes. He, therefore, contends that there have been various directions during the pendency of this case, therefore, the Court, at this stage, may not vacate the interim arrangement which remained in force for a long time.

4. I have considered the submissions made by learned counsel appearing for the parties and perused the record.

5. The fact of the case would clearly indicate that the plaintiff appears to have made the payment of Rs.4 Lakhs to the defendants against the total consideration of Rs.9,75,93,750/-. In addition, the order dated 23.08.2018 appears to have been passed while the parties were being referred to Mediation. The Court, therefore, did not deal with the three important aspects requiring for grant of injunction *prima facie case, balance of convenience and irreparable loss*.

6. Having considered the nature of controversy and the fact that the agreement to sale is dated 18.07.2012 and the plaintiff had only paid a sum of Rs.4 Lakhs and, therefore, it would be highly inappropriate to direct the defendants to maintain the *status quo* with respect to the suit property which

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*

*The Order is downloaded from the DHC Server on 23/05/2025 at 13:00:24*



was agreed to be sold against the total consideration of Rs.9,75,93,750/- in the year 2012. The value of the property by this time might have substantially increased.

7. The equity, however, can be balanced by directing the defendants to deposit the amount which was paid by the plaintiff towards advance consideration.

8. In view of the aforesaid, the Court passes the following directions:

- i. The defendants to deposit a lump sum amount of Rs.7 Lakhs before the Registrar General of this Court within a period of four weeks from today.
- ii. The said amount shall be invested by the Registrar General of this Court in an interest bearing FDR.
- iii. On deposition of the said amount, the order dated 23.08.2018 shall be treated to have been vacated.

**CS(OS) 1782/2014 & I.A. 14350/2018**

9. List this matter before the concerned Joint Registrar for taking up necessary steps in accordance with the extant rules on 23.07.2025.

**MAY 20, 2025/P/SPH**

**PURUSHAINdra KUMAR KAURAV, J**

[Click here to check corrigendum, if any](#)