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

+ **CS(OS) 1782/2014**

M/S KUSHAL INFRAPROJECT INDUSTRIES INDIA LTD

..... Plaintiff

Through: Mr.B.S. Maan, Advocate with
Mr. Aditya Singh, Adv.,
Mr. Shitiz Agnihotri, Adv.

versus

SURESH KUMAR & OTHERS

..... Defendants

Through: Mr. Anand Yadav, Advocate with
Ms. Anita Tomar, Adv. for D-1 to
D-4.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **27.03.2017**

Heard.

Upon perusal the following issues arise and are framed:-

1. Whether receipt dated 18.07.2012 is an agreement to sell and same is concluded agreement to sell? OPP.
2. Whether plaintiff has performed its part of agreement and plaintiff is ready and willing to perform its part of agreement to sell? OPP.
3. Whether the receipt dated 18.07.2012 is still subsisting in view of legal notice dated 13.02.2013? OPP.
4. Whether the suit has been filed and signed by competent and authorized person? OPP.
5. Whether the transaction is in contravention of Section 33 read with Section 45 of Delhi Land Reforms Act, 1954 and relief of specific performance cannot be granted to plaintiff? OPD.

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6. Whether plaintiff has played a fraud and plaintiff has not approached this Hon'ble Court with clean hands? OPD.
7. Whether defendant no.4 was not to competent enter into any contract as he was minor on 18.07.2012 and therefore suit is not maintainable against him? OPD-4.
8. Whether receipt dated 18.07.2012 stands repudiated by defendant no.4 and relief of specific performance cannot be granted against defendant no.4. OPD-4.
9. Whether plaintiff is entitled to decree of specific performance as prayed? OPP.
10. Relief.

The prime burden to prove would be that of the plaintiff and, therefore, that party will begin first. The list of witnesses and affidavit-in-evidence shall be submitted by the plaintiff within four weeks of today and copies served on the defendants through counsel within the same period. Defendants shall also submit their list of witnesses and affidavit-in-evidence within four weeks of the compliance by the plaintiff.

The matter shall be listed before the Joint Registrar (Judicial) for fixing a schedule for recording of evidence on 21.07.2017.

R.K.GAUBA, J.

MARCH 27, 2017

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