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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1628/2010 & IAs No.10540/2010 (u/O XXXIX R-1&2 CPC)
& 7689/2014 (of D-2 u/O 14 of Specific Relief Act, 1963 r/w O-VII
R-11 CPC)

PRADEEP GODHWANI Plaintiff
Through: Mr. Jagdev Singh and Mr. Sachin
Saini, Advs.

Versus

PARTHO ROY CHOWDHRY & ANR Defendants
Through: Mr. S.K. Bhaduri, Ms. Vandana Kiran
and Mr. Prem Prakash, Advs. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.03.2018**

1. The application of the plaintiff for interim relief, in this suit for specific performance of an agreement to sell of immovable property, is for consideration.
2. Though the agreement is of the year 2008 and the suit is of the year 2010 but issues even have not been framed in the suit as yet and the suit is still at an initial stage.
3. A perusal of the Agreement to Sell, of which specific performance is claimed, shows that out of the agreed sale consideration of Rs.6,50,00,000/-, Rs.5,50,00,000/- was to be paid in sixty Equated Monthly Instalments (EMIs) of Rs.9,16,666/- commencing from 1st November, 2008 along with yearly inflation Index Liven/published by the Reserve Bank of India (RBI)/ Income Tax Department with the base value of 571 points.

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4. I have enquired from the counsel for the plaintiff, what was the yearly inflation Index Liven/published by RBI/Income Tax Department referred to in Clause 2 of the Agreement to Sell and whether there is any certainty about the same, inasmuch as in the absence of the same, the agreement is unworkable and cannot be specifically performed.
5. Though the counsel should have filed the same but on enquiry states that he will have to file the same.
6. The counsel to, on the next date of hearing, produce the Index of the year of Agreement to Sell, showing the base value of 571 points, and the yearly Index from the year 2009 till the year 2017.
7. List on 8th May, 2018.

RAJIV SAHAI ENDLAW, J.

MARCH 19, 2018
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