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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1101/2015

SUBHASH SALUJA Plaintiff

Through: Mr. D.V. Khatri, Advocate.

versus

CHANDRA SHEKHAR & ORS Defendants

Through: Mr. Arjun Mukherjee, Advocate with
Ms. Anupama Kumar, Advocate for
defendants No.1 and 2.

Mr. Vinod Tyagi, Advocate for
defendant No.3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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05.04.2018

I.A. 3538/2018

Present application has been filed for correction of the alleged clerical mistake in issues No.4 and 7.

Learned counsel for plaintiff states that inadvertently the onus of the said issues have been placed on the plaintiff instead of defendants No.1 and 2.

Since the defendants No.1 and 2 had taken a preliminary objection with regard to inadmissibility of the Agreement to Sell, this Court had framed issue No.4. Consequently, this Court is in agreement with the learned counsel for plaintiff that the onus of proof of issue No.4 has to be on



defendants No.1 and 2.

Accordingly, the issue no.4 is recast as under:-

4. *Whether the Agreement to Sell and receipts are inadmissible in law and liable to be confiscated? OPD1&2.*

However, as far as the onus of proving the issue No.7 of limitation is concerned, this Court is of the opinion that the onus has been rightly cast on the plaintiff as it is for the plaintiff to prove that the suit is within limitation. (See: ***K.S. Nanji & Company Vs. Jatashankar Dossa & Ors., AIR 1961 SC 1474 paras 10 and 11***).

Accordingly, the prayer for shifting of onus of proof with regard to issue No.7 is declined.

With the aforesaid observations and direction, present application stands disposed of.

CS(OS) 1101/2015

List the matter before Joint Registrar for recording of evidence on 08th May, 2018.

MANMOHAN, J

APRIL 05, 2018

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