



\$~4

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

+ **CS(COMM) 1218/2018**

RAJESH ARORA & ORS.

..... Plaintiffs

Through: Mr. Harish Malhotra, Sr. Adv. with
Mr. Vikas Arora and Mr. Radhika
Arora, Adv.

Versus

KAMALJEET SINGH AHLUWALIA & ORS.

..... Defendants

Through: Mr. Anil Sapra, Sr. Adv. with Mr.
Sareen Chaudhary, Mr. Palash
Agarwal and Ms. Akanksha
Choudhary, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **21.05.2019**

1. The suit is listed for framing of issues.
2. The senior counsel for the plaintiffs as well as the senior counsel for the defendants have handed over proposed issues which are taken on record. However, not finding the issues proposed to be reflecting the controversy, the counsels have been heard.
3. On the pleadings of the parties, the following issues are framed:
(I) Whether as on 12th October, 2015, a sum of Rs.22,98,98,996/- was due from the defendants jointly and severally to the plaintiffs or to plaintiffs No.2&3? **OPP**

CS(COMM) 1218/2018

Page 1 of 4



(II) Whether the Memorandum of Understanding (MoU) dated 12th October, 2015 was executed by the parties in settlement of the said dues of the plaintiffs, by the defendants? OPP

(III) Whether the signatures of the defendants on the MoU dated 12th October, 2015 were obtained by force and coercion and if so to what effect? OPD

(IV) If the above issues are decided in favour of the plaintiffs, whether the plaintiffs have been ready and willing to perform their obligations under the MoU dated 12th October, 2015? OPP

(V) If the above issues are decided in favour of the plaintiffs, whether the plaintiffs are entitled to the reliefs claimed in terms of the MoU dated 12th October, 2015 and if so, against which of the defendants? OPPr

(VI) If any monies are found due to the plaintiffs or any of the plaintiffs from the defendants or any of the defendants, whether plaintiffs/such plaintiff/s is entitled to any interest thereon and if so, at what rate and for what period? OPP

(VII) Relief.

4. I may record that though both counsels in their proposed issues had proposed an issue of limitation but the senior counsel for the defendants under instructions states that he was not aware that the suit had been instituted on 11th October, 2018 and thus does not press the said issue.

5. Similarly, though the suit is titled as for specific performance but the senior counsel for the defendants under instructions states that it is not the
CS(COMM) 1218/2018

Page 2 of 4



plea of the defendants that the plaintiffs are not entitled to specific performance for the reason of being not ready and willing to perform their part of the contract.

6. The plaintiffs had also proposed an issue qua mis-joinder but the same is found to be of no avail and has thus not been framed.

7. Thus, issues as aforesaid have been framed.

8. No other issue arises or is pressed.

9. The parties to file their list of witnesses within fifteen days.

10. The plaintiffs to file affidavits by way of examination-in-chief of their witnesses on or before 20th July, 2019.

11. Option given of having evidence recorded on commission has been accepted.

12. Commission is issued to Mr. M.R. Chawla, Advocate (Mob.9868152997) to record evidence in the suit. He is requested to record the evidence within the Court Complex.

13. The fee of the Commissioner, besides out of pocket expenses, is fixed at Rs.1 lac to be shared equally by the plaintiffs on the one hand and the defendants on the other hand.

14. The Registry is directed to send the file of the suit at the place and time fixed by the Commissioner for recording of evidence.

15. The recording of evidence, with prior appointment of the Commissioner to commence on or before 15th August, 2015 and be completed within six months from the date of commencement.

CS(COMM) 1218/2018

Page 3 of 4



16. The plaintiffs and their representatives, after prior notice to the defendants, shall be entitled to enter the subject floor of the property qua which interim arrangement was made on 28th November, 2018, only for the purposes of preparation of the plan and to take photographs to show the existing status thereof.

17. List after the recording of evidence is completed.

RAJIV SAHAI ENDLAW, J.

MAY 21, 2019

‘bs’..