

T. Muralidhar Vs. Pvr Murthy

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Court : Delhi

Decided On : Nov-07-2014

Judge : Gita Mittal

Appellant : T. Muralidhar

Respondent : Pvr Murthy

Advocate for Def. : Mr. Ankit Jain

Advocate for Pet/Ap. : Mr. Ankit Jain, Mr. Nimesh Chib

Judgement :

\$~ *IN THE HIGH COURT OF DELHI AT NEW DELHI RFA (OS) No.115/2014 & CM No.12344/2014 Reserved on:

22. d September, 2014 Date of Decision:

7. h November, 2014 T. MURALIDHAR Through : versus Appellant Mr. Suman Doval, Adv. PVR MURTHY Respondent Through : Mr. Ankit Jain and Mr. Nimesh Chib, Advs. CORAM: HON'BLE MS. JUSTICE GITA MITTAL HONBLE MR. JUSTICE SUNIL GAUR GITA MITTAL, J1 What is not the pleaded, cannot be proved, what is admitted need not be proved. It is this fundamental principle which binds every court. It is this very principle which shall be violated if the present appeal is accepted.

2. On the 28th of July, 2009, the appellant had filed CS(OS)No.1397/2009 against the respondent. For the purpose of convenience, we propose to refer to the parties as plaintiff and defendant in the present judgment. Besides the residual prayer, the plaintiff sought the following prayers:

a) Pass a decree in favour of the plaintiff and against the defendant directing the defendant to execute the sale deed and/or all necessary documents for transferring the flat no.7430, Sector B-10, Vasant Kunj, New Delhi 110070 in favour of the plaintiff. b) pass a decree of permanent injunction in favour of the plaintiff and against the defendant restraining the defendant from taking forcible possession of the flat no.7430, SectorB-10, VasantKunj, New Delhi - 110070 from the plaintiff, or to do any act that may hinder a peaceful occupation and enjoyment of the said flat by the plaintiff

3. The defendant filed a written statement and the matter was listed on the 29th of August, 2013 for framing of issues. The following issues were framed by the court:

(i) Whether the plaint in the present suit discloses any cause of action?. OPD. (ii) Whether a concluded and binding Agreement to Sell took place between the parties?. OPP. (iii) Whether the present suit is barred by limitation?. OPD. (iv) If answer to the second issue is in the affirmative, whether the plaintiff was ready and willing to perform his part of the Agreement to Sell?. OPP. (v) Relief.

The defendant made a request that issue no.1 be treated as a preliminary issue on the ground that the reading of the averments in the plaint in their entirety would show that no concluded agreement to sell has been arrived at between the parties. Accordingly, by the same order, issue no.1 was directed to be treated as preliminary issue.

4. The arguments on the preliminary issue no.1 were heard on the 28 th of March, 2014 and judgment came to be passed on the 1 st of July, 2014 whereby the issue no.1 was decided in favour of the defendant/respondent and the plaint was rejected under Order VII Rule 11 of the Code of Civil Procedure with costs resulting in the present appeal.

5. A bare reading of the prayer clause would show that the appellant has cleverly evaded mentioning the dates or particulars of any agreement by the defendant/respondent in his favour and carefully desisted from seeking the specific performance of a particular agreement to sell.

6. Before proceeding any further, let us firstly examine the scope of consideration by the court under Order VII Rule 11 of the CPC. Scope of inquiry under Order VII Rule 11 of the Code of Civil Procedure 7. While construing the plaint from the perspective of its rejection for want of cause of action or its being barred by law under Order VII Rule 11 of the Code of Civil Procedure, the Supreme Court has unequivocally declared that the court should not pick out averments in the plaint in isolation but has to conduct its meaningful reading. In this regard, reference may be made to (1977) 4 SCC467T. Arivandandam v. T.V. Satyapal & Anr. wherein it was held that:

5. ...The learned Munsif must remember that if on a meaningful -- not formal -- reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII Rule 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clear drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Ch. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi It is dangerous to be too good.

(underlining by us) 8. In 2005 (7) SCC510Popat and Kotecha Property v. State Bank of India Staff Association, the Supreme Court has clearly stated the applicable principles in paras 15 to 19 of this judgment which read as follows:

15. In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal and Ors. AIR 1998 SC634it was held that the basic question to be decided while dealing with an application filed under Order VII Rule 11 of the Code is whether a real cause of action has

been set out in the plaint or something purely illusory has been stated with a view to get out of Order VII Rule 11 of the Code. xxx xxx xxx 17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* (1982) 3 SCC 487 only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* AIR 1998 SC 3085 it was observed that the averments in the plaint as a whole have to be seen to find out whether Clause (d) of Rule 11 of Order VII was applicable.

19. There cannot be any compartmentalization, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hairsplitting technicalities.

(Emphasis supplied) 9. We may also usefully refer to para 4 and 5 of the Division Bench pronouncement of this court reported at 2006 (88) DRJ 837 (DB) *Hari Gokal Jewellers v. Satish Kapur* wherein this court elaborated on the manner in which the court would effect scrutiny of the plaint to ascertain whether it discloses the cause of action or not, in the following terms: "4. While terming the arguments of the appellant as misplaced and misconceived in law, counsel appearing for the respondent supported the judgment and decree of the trial Court in addition to the reasons stated therein on the ground that the plaint is vague and vexatious; the suit is without any cause of action and that the defendant had a right to file application under Order 7 Rule 11 of the Code for rejection of plaint at any stage of

the suit. It was further stated that summons served upon the defendant were not for framing of issues but in any case such an argument would be without basis. It is the contention of the respondent that in accordance with the settled principles of law, the trial Court has not fallen in any error of law or jurisdiction in passing the impugned judgment.

5. Firstly we may refer to the plaint filed by the plaintiff/appellant. Under Order 2 of the Code of Civil Procedure, the plaint as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and must prevent further litigation. The plaint should include the whole cause of action. All parties necessary to the suit be impleaded. The plaint must disclose cause of action and there has to be proper joinder of cause of action. It is settled principle of law that the plaint filed by the plaintiff should neither be vague nor vexatious. It is the abundant duty of the plaintiff to clearly and unambiguously plead his case. It must clearly spell out the cause of action and the reliefs claimed against which of the defendants. Unfortunately, all these ingredients are missing in the plaint. This is the plaint running into 6 paragraphs including the cause of action, valuation, jurisdiction and the prayer clause. In the plaint, it is nowhere stated that during which period the parties entered into various transactions for sale and purchase as contended and how the alleged loan of `1,60,000/- was a business transaction. ...

10. Cause of action is that bundle of facts which are required to be pleaded and proved for the purpose of obtaining relief claimed in the suit. It is trite that only material facts are required to be stated and that evidence can be lead only on such facts as have been specifically pleaded.

11. It is equally well settled that so long as the plaint discloses some cause of action or raises some questions of facts to be decided by a judge, the mere fact that the case is weak and not likely to succeed would not be a ground for striking it out. The failure of the pleadings to disclose a cause of action is distinct from the absence of full particulars (Ref. (1994) 2 SCC392Mohan Rawale v. Damodar Tatyaba @ Dadasaheb & Ors.) These well settled legal principles shall guide our consideration. Whether the plaint in this case discloses a cause of action?.

12. Given the narrow parameters within which the issue has to be examined by this court, let us examine the plaint which was filed by the appellant. The case was filed in respect of property bearing Flat No.7430, SFS(2), Sector B10, VasantKunj, New Delhi admittedly owned by the defendant.

13. Reference requires to be made to para 3 of the plaint wherein it is averred to the effect that sometime in March 2001, the defendant represented to the plaintiff that he is the owner of the flat and that he was entitled to dispose of the said flat. In para 4, the appellant refers to having shown interest in purchasing the said flat and after negotiation the respondent agreed to sell the flat to him for a total sale consideration of `26,00,000/-. He further says in para 5 that after the said agreement between the parties, the respondent showed the said flat to the plaintiff. It is important to note that the plaintiff does not disclose the date, month or year of any of these events, more so of the agreement which he claims as having been entered into with the defendant.

14. We now come to the assertion with regard to payment of amounts as the sale consideration. In para 5 of the plaint, the plaintiff has claimed that "upon being satisfied about the defendants ownership, the plaintiff paid a sum of `50,000/- in cash to the defendant as advance towards the total agreed sale consideration of the said flat". The plaintiff discloses no date of such payment. He has produced no document with the plaint to support withdrawal of any such amount from any bank or its payment to the defendant. He is also unable to show acknowledgement of receipt of such payment. In the same paragraph it is vaguely asserted by the plaintiff that in turn the defendant had handed over the keys of the flat to the plaintiff as part performance of the deal.

15. These are the averments on which the plaintiff contends that deal stood confirmed and became a binding contract. However, in para 6, the plaintiff also states that the defendant had promised to visit Delhi very soon to complete the formalities of executing an agreement to sell etc in favour of the plaintiff to enable him to generate loan. In para 8 again the plaintiff refers to the defendants promise to complete the formalities very soon. He further admits that since the Agreement to Sell had not been executed by him, the plaintiff was not able to generate the

required loan amount.

There is not a single communication from the plaintiff between the year 2001 to 2009, when the plaint was filed, by the plaintiff whereby he called upon the defendant to execute the agreement to sell.

16. Yet another important aspect of the matter is the date and manner in which the plaintiff came to occupy the property. In para 5 of the plaint, the plaintiff claims that upon being satisfied about the defendant's ownership, he paid `50,000/- in cash as advance towards sale consideration of the said flat and "in turn" the defendant handed over the keys of the flat to the plaintiff as part performance of the deal. The plaint is eloquent by its silence so far dates of any of this event is concerned.

17. In para 7 of the plaint it is averred that at the time of taking over the possession of the said flat, the flat was in a completely ramshackle condition and that the plaintiff effected renovation to make it habitable. Again we are completely in the dark about the dates thereof or any particulars of when, how and what was undertaken by the plaintiff. Not a single event is supported by any document.

18. Yet another material constituent of a valid agreement is the sale consideration for the transaction. We have seen a vague reference to `26,00,000/- in para 4 of the plaint. This is coupled with the claim of payment of `50,000/- in cash without any date thereof being mentioned. In para 11, he further states that one fine day he lost his bag containing some of his important papers, including the bank deposit slips, diary etc., which contained the particulars of the defendants bank account and address, telephone number etc.

19. The suit was premised on the averments made in para 21 of the plaint describing the cause of action having accrued in favour of the plaintiff in the following manner:

21. That the cause of action first arose in favour of the plaintiff and against the defendant when the defendant indicated his intentions to the plaintiff sometime in 2001 for selling the said flat in question, it then arose when both the parties orally entered in to a contract for sale of the said flat by the defendant in favour of the

plaintiff for a total sale consideration of Rs.26,00,000/-. It also arose when the plaintiff paid a sum of Rs.50,000/- to the defendant towards advance sale consideration of the said flat, it again arose on all occasions when the plaintiff made further part payment of the sale consideration to the defendant; it then arose when the defendant started ignoring the execution of the sale agreement in favour of the plaintiff; it also arose on 16th May, 2009 when the defendant visited the said flat along with his friends to forcibly vacate the plaintiff from the said flat; and it finally arose on 01.07.2009 when the defendant requested the plaintiff through email to shift-out of the said flat. Since the defendant has failed and neglected to execute the sale agreement in favour of the plaintiff till date, the cause of action continues in favour of the plaintiff and against the defendant.

(Emphasis by us) 20. The plaintiff has filed a letter dated 5th of April, 2002 received from the defendant. By this letter the defendant informed the plaintiff as follows:

P.V.R. Murthy April 05, 2002 Dear Mr. Muralidhar, Greeting to you This is the second batch of letter - identical in nature writing after receiving your letter sent through speed post dated...(incomplete). As you had given one address in the body of the letter a d.. (incomplete) on the envelope carrying the letter, I had written to you to these addresses as well as to your old residential address also - acknowledging the receipt of your speed post communication and giving my view specific to the points you had raised. As there is no acknowledgment from you, I do not know whether it is the non-receipt of my letters to you or your normal delayed response. I will repeat a few of the points given in my earlier ... (incomplete) of letters (sent of three addresses a/a)1. I had deposited the cheque in my bank account. Being an outstation cheque, it would take 2-3 weeks so I did not check on its clearance. After receipt of your letter, I had checked my account and then with the bank. It looks the cheque has been presented but was returned to the bank. The bank had presented it again and are awaiting clearance. I will check on this after this financial year end bank busy schedule is over & revert.

2. I do not think the alternative given by you are admissible. I would suggest you talk to Mr. Naa (incomplete) - he is the person who talked to me and the...

(incomplete).

3. About the sale of the flat, I have an offer of Rs.2... (incomplete) from one NRI acquaintance. I have not decided on this issue but would like to know what is the present - on going rate for sale of such flat?. if you are interest you can indicate you quote/terms. As mentioned, the same matter has appeared in the letters addressed to you other two addresses. I would appreciate your immediate acknowledgement on the receipt of any of my communication and your response on the issues concerned.

(Emphasis by us) 21. It is evident from the above that the defendant has received a quotation about sale of the flat from an NRI acquaintance; that even as on 5th of April, 2002, he had not decided on the said offer; but had sought information from the plaintiff about the present ongoing rate for the sale of such flats and in case the plaintiff was so interested in purchase of the flat, the defendant called upon him to indicate his quote/terms. The plaintiff has relied on this letter dated 5th April, 2002 which clearly by itself establishes that there was no contract/prior agreement with the defendant for the sale of the flat. Certainly there was no oral agreement for sale having taken place in March, 2001 or payment of part sale consideration by the plaintiff.

22. No document has been produced by the plaintiff which even remotely suggests that even thereafter, there was ever any agreement to sell between the parties or that, if there was any agreement, what was the sale consideration and what were the other essential terms and conditions of the sale.

23. The letter dated 5th of April, 2002 also shows that it has been received by the plaintiff at Flat No.4042, Sector B56 VasantKunj, New Delhi which is not the suit property. This fact shows that the plaintiff was not residing in the suit property at the time of receipt of the letter dated 5 th April, 2002. He was not in occupation of the suit property in terms of any agreement with the defendant. The letter itself mentions several addresses of the plaintiff. The plaintiff claims to be in possession of the flat. But he fails to disclose in his plaint any date on which he was put in possession or by whom.

24. To make out a cause of action, the plaintiff states that on 16th of May, 2009, the defendant telephonically asked him to vacate the flat which was followed by the e-mail dated 1st of July, 2009 (Ex.P-2 - also filed by the plaintiff) from the defendant whereby the plaintiff was informed that the defendant would like to move his things from Hyderabad to Delhi from the end of the month. The plaintiff was further requested therein that it would be helpful if he could hasten the process of shifting.

25. This email triggered of the plaintiffs legal notice dated 11th of July, 2009 raising a first time claim of an agreement to sell. Notably, this notice is as vague as the plaint. So far as agreement to sell is concerned, in the legal notice the plaintiff makes reference to "during one of your business visits" "...sometime in early 2001" "...after negotiations, on or about the same time" "...Consequent upon the said agreement" "...paid you a sum of `50,000/- in cash at that time as advance" "...In turn, you handed over the keys of the flat..."

We hasten to mention that this legal notice is referred to in the plaint and also filed on record by the plaintiff. It is these very vague assertions which have been repeated in the plaint which has been extracted above.

26. Let us look at the payments claimed by the plaintiff. In para 9 of the plaint, the plaintiff has claimed that he was not in a position to pay the balance sale consideration in one go and that therefore, the defendant requested him to start paying a sum of `4,000/- each month as part of the sale consideration towards the flat; that as such the plaintiff started depositing an amount of `4,000/- each month in cash in the defendants bank account with the UTI Bank (now known as Axis Bank). No date of when such request was made is available anywhere in the record. When and how did he make such request?. He has further vaguely claimed that he started depositing such amount in the bank account of the respondent.

27. In the impugned judgment, the learned Single Judge has noted the claim in para 13 of the plaint to the effect that on 9th of June, 2005 he visited the respondents residence in Secunderabad and handed over a further sum of `50,000/- to one of the defendants relative in good faith as the respondent was not

available at home.

28. Inclusive of the payment claimed in para 13, the appellant states in para 16, of the plaint that he has tendered a sum of `4,50,000/- towards sale consideration.

29. In para 15 of the plaint, the appellant claims that on 16th of May, 2009, he learnt from the neighbour that three persons had visited the flat and that when contacted on the telephone slip left with the neighbour, the plaintiff found that it was the defendants phone number who refused to execute the necessary sale document as per the agreement.

30. The plaintiff states that he made a police complaint on 18th of May, 2009 in this regard which he has filed with the plaint. We find that the police complaint filed in the suit by the plaintiff makes no reference at all to the defendant. It also makes no reference to any agreement to sell or to any payment made by the plaintiff pursuant thereto.

31. The plaintiff also relies on a photocopy of a letter dated 22 nd June, 2005 which he claims to have addressed to the defendant. There is no proof of dispatch of this letter. A vague claim of having handed over `50,000/- to the respondent's relative in Secunderabad is made therein. However, more eloquently, there is no reference at all to any agreement to sell. Even this letter does not state that any payment was made with regard to the sale consideration of the flat in question. No reference to the deposit of `4,000/- is mentioned as any payment towards performance of any contract to purchase the flat.

32. Mr. Suman Doval, learned counsel for the appellant has taken us through the deposit slips filed by him to show that the appellant has deposited cash in the respondent's account. We place a summarization of the details thereof hereunder:
Date of the cash Deposits 2nd of April, 2004 15th of June, 2005 5th of September, 2005 12th of March, 2009 11th of August, 2010 2005 Amount
`48,000/`8,000/`10,000/`39,000/`12,000/- 10th October, 2005, 8th November, 2005 and 2nd (`4,000/- x December, 2005. 2006 4th January, 2006, 10th February, 2006, 11th March, (`4,000/2006, 4th April, 2006, 9th May, 2006, 6th June, 2006,

12) 5th July, 2006, 9th August, 2006, 4th September, 2006, `48,000/3rd December, 2006, 8th November, 2006 and 8th December, 2006. 2007 x 3rd January, 2007, 6th February, 2007, 8th March, (`4,000/2007, 7th April, 2007, 8th May, 2007, 5th June, 2007,

12) 6th July, 2007, 6th August, 2007, 3rd September, 2007, `48,000/3rd October, 2007, 6th November, 2007 and 8th December, 2007. x 2008 7th January, 2008, 2nd February, 2008, 8th March, (`4,000/2008, 5th April, 2008, 5th May, 2008, 5th June, 2008,

12) 4th July, 2008, 6th August, 2008, 9th September, 2008, `48,000/6th October, 2008, 5th November, 2008 and 5th December, 2008. 2009 x 5th January, 2009, 5th February, 2009, 9th March, (`4,000/2009, 6th April, 2009, 2nd May, 2009, 1st June, 2009,

12) 11th July, 2009 1st August, 2009, 8th September, `48,000/2009, 14th October, 2009, 11th November, 2009 and 9th December, 2009. 2010 x 6th January, 2010, 12th February, 2010, 10th March, 2010, 8th April, 2010 and 13th May, 2010. Total number of deposits - 56 Total RFA(OS) 115/2014 (`4,000/- x Other than these arbitrary deposits, there is no deposit slip for over four years.

33. In the plaint, it is the case of the appellant that he is occupying the property in the South East District of Delhi in Vasant Kunj, a posh area of New Delhi, since around March, 2001. The instant suit was filed on 28 th of July, 2009, that is nine years four months (or 112 months) thereafter. The above mentioned deposit slips manifest that deposits of `48,000/- on 2nd of April, 2004; `8,000/- on 15th of June, 2005; `10,000/- on 5th of September, 2005; `39,000/- on 12th of March, 2009 and `12,000/- on 11th of August, 2010 (thus totalling to `1,17,000/-) were made in the aforesaid bank account of the respondent. The plaintiff was also made 56 deposits of `4,000/- each in the respondents account on different dates between 10th of October, 2005 to 13th May, 2010 totalling to `2,24,000/-. Between 2004 and 2010, the appellant has, therefore deposited the total amount of `3,41,000/- in the respondents bank account on different dates.

34. The appellant in the plaint claims to have made several requests, oral and in writing for execution of the necessary documents which have not been heeded by the appellant. No details of the date(s) when such requests were made or the nature of documentation are given.

35. On the aspect of what would be considered as an essential pleading, reference may be made to para 21 of Popat and Kotecha Property (Supra), wherein the court elucidates the requirement of Order VI Rule 2(1) of the CPC in the following terms:

21. Order VI Rule 2(1) of the Code states the basic and cardinal rule of pleadings and declares that the pleading has to state material facts and not the evidence. It mandates that every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

36. The distinction between material fact and particulars was also pointed out by the Supreme Court in Popat and Kotecha Property (Supra) in the following terms:

22. There is distinction between 'material facts' and 'particulars'. The words 'material facts' show that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement or plaint becomes bad. The distinction which has been made between 'material facts' and 'particulars' was brought by Scott, L.J.

in Bruce v. Odhams Press Ltd. (1936) 1 KB697

37. The learned Single Judge has held that the entire bundle of facts pleaded, read in the light of the documents of the plaintiff, do not disclose a cause of action rather they show a clear contradiction. The plaint also displays the clever methodology in drafting of the plaint adopted by the plaintiff to create an illusion of a cause of action.

38. After considering the pronouncements of the Supreme Court on the parameters of consideration under Order VII Rule 11 of the CPC as well as the pleadings in the plaint, in the impugned judgment dated 1st of July, 2014 the

learned Single Judge has concluded as follows: (i) that no specific agreement to sell is pleaded or receipt evidencing any payment pursuant thereto to the defendant has been placed on record by the appellant or relied upon. (ii) no receipt to support the appellants claim of payment of `50,000/- to any relative of the defendant on 9th of June, 2005 has been produced. Even the name of the relative is not mentioned in the plaint. (iii) the bank slips showing deposit of `4,000/- per month in the account of the defendant do not indicate the purpose for which the amount is deposited. (iv) the appellant has relied on the letter dated 25th of June, 2005 (sic 22nd of June, 2005) which has been denied by the respondent. (v) no proof of dispatch or delivery of the said letter has been filed on record. The letter, at best, indicates that there is some discussion for the sale of the flat but does not indicate any terms or conditions for the sale. (vi) there is nothing on record to support the plea that the amount of `4,000/- was being deposited by the appellant in the respondents bank account pursuant to any agreement to sell the flat or towards any part sale consideration. By the impugned judgment dated 1st of July, 2014 the learned Single Judge has thus found that the plaintiff has failed to disclose the essential pleadings with regard to agreement to sell; sale consideration; time frame within which the agreement must be performed amongst others.

39. Learned counsel for the defendant has vehemently urged that the defendant has denied any agreement to sell with the plaintiff for sale of the flat; that he has specifically stated that no payments were made at the defendants instance. It is submitted that the plaintiff has tried to create evidence by unilaterally effecting deposits in a bank account which the defendant was not operating in Delhi fully knowing that the defendant was in Secunderabad at the relevant time. Learned counsel for the defendant points out that even if it could be assumed that the defendant had proposed to accept sale consideration through monthly equated instalments of `4,000/- each, then more than 54 years would be required for paying the entire sale consideration of `26,00,000/-. The defendants admitted age at the relevant time was over 50 years. The defendant would have to live to be over 104 years of age to receive the alleged sale consideration! It is urged that it is impossible that any person wanting to sell his property have agreed to such ridiculous suggestion as is propounded by the plaintiff.

40. It is trite that at the stage of consideration of the objection under Order VII Rule 11 of the Code of Civil Procedure, the court cannot look at the defence.

41. It is evident from the plaint and accompanying documents that the single payment acknowledged by the defendant is a cheque mentioned in the letter dated 5th of April, 2002 which was sent by the plaintiff to the defendant at Secunderabad. The plaintiff does not claim that this payment relates to any agreement to sell for the flat in question. Of course the reason thereof is not disclosed by the plaintiff. At this stage we cannot examine the defendants case. But the above discussion highlights one important aspect of the case. It completely clouds the appellants claims about being called upon by the defendant to make the deposits in the bank account in Delhi towards any sale consideration for the flat.

42. In the judgment reported at 2011 (125) DRJ570Braham Singh v. Sumitra & Ors. relied upon by Mr. Ankit Jain, learned counsel for the defendant it was held as follows:

4. Some of the essential ingredients of an Agreement to Sell an immovable property are (i) identity of vendor and purchaser (ii) complete description of the property subject matter of the agreement (iii) amount of consideration to be paid by the purchaser to the seller (iv) time within which the agreement is to be performed and (v) earnest money if any paid to the vendor, if one of these essential ingredients are missing, the agreement between the parties would not amount to concluded contract. A Division Bench of this Court in Mirahul Enterprises v. Mrs. Vijaya Srivastava, AIR2003 Delhi 15 referring to the provisions contained in Section 10 of Specific Relief Act, observed that a true contract requires the agreement of the parties, freely made with full knowledge and without any feeling of restraint and the parties must be ad-idem on the essential terms of the contract and in case it is an Agreement to Sell of immovable property, the law requires that it must certainly identify the property agreed to be sold and the price fixed as consideration paid or agreed to paid."

(Underlining by us) 43. It is trite that the ingredients necessary to make out a legal, valid and enforceable agreement to sell include (i) the date of the agreement; (ii)

the particulars of the consideration; (iii) certainty as to party i.e. the seller and the purchaser (iv) certainty as to the property which was the subject matter of the agreement (v) certainty as to other terms relating to probable cost of conveyance to be borne by each of the parties (vi) time within which the conveyance of the property was to be effected. There must have been clear consensus between the parties about the above stipulations and the parties must be ad-idem. (Ref :

63. (1996) DLT52Aggarwal Hotels (P) Ltd. v Focus Properties (P) Ltd.) In the event of any of the above constituents missing, it has to be held that there was no valid contract at all.

44. The learned Single Judge has observed that the plaintiff has failed to disclose the name of the relative to whom he handed over this huge sum of money on 9th June, 2005 without taking any receipt thereof. The claim is also unbelievable when read in the context of the above averments in para 9 of the plaint. There is no averment in the plaint or material placed by the plaintiff to show that the appellant was possessed of such amount on the 9th of June, 2005 or that he had drawn such amount from any bank account.

45. The appellant has also placed on record the copy of the conveyance deed dated 31st August, 2010 executed by the DDA in favour of the respondent conveying all title rights and interest of the flat in question to the respondent. We find substance in the submission made by learned counsel for the respondent that this fact by itself reinforces the finding that there was no agreement to sell.

46. Mr. Ankit Jain, learned counsel for the respondent has also placed reliance on the pronouncement of the Supreme Court reported at (2002) 2 SCC612Mool Chand Bakhru & Anr. v. Rohan & Ors. In this case, the respondent was placing reliance on the several letters sent by the appellant - Mool Chand Bakhru to the respondent based whereon it was submitted that thereby the appellant - Mool Chand Bakhru had agreed to sell his half share of the property to the respondent. It was urged that from the admission made by the appellant in these letters, it has to be concluded that the Mool Chand Bakhru had agreed to sell the share and that the letters be taken to be the agreement to sell in which the terms of the agreement have been spelt out. The Supreme Court had held as follows:

15. ...We do not find any substance in this submission. The letters written by Mool Chand cannot be termed as an agreement to sell, the terms of which have been reduced into writing. At the most it is an admission of an oral agreement to sell and not a written agreement. Statutorily the emphasis is not on a written agreement only. In addition the emphasis is on the terms of the agreement as well which can be ascertained with reasonable certainty from the written document. There was no meeting of minds. Admission made by Mool Chand of an oral agreement to sell does not spell out the other essential terms of the agreement to sell such as the time frame within which the sale deed was to be executed and as to who would pay the registration charges etc. The letter written by Mool Chand cannot be taken to be an agreement to sell within the meaning of Section 53-A spelling out the terms of an agreement for sale. In our view, the High Court fell in error in coming to the conclusion that the letters written by mool Chand, referred to above, constituted an agreement to sell the terms of which have been reduced in writing. Terms necessary to constitute the transfer with reasonable certainty could not be ascertained from the letters written by Mool Chand to his uncle. At the most it is an acknowledgment that there was an oral agreement to sell but the same could not be construed to be a written agreement to sell the terms of which have been reduced into writing. Written agreement has to precede the putting of the proposed vendee in possession of the property. Bhagwan Dass was never put in possession in pursuance of the property to the written agreement arrived at between the parties.

(Emphasis supplied) 47. Our attention is also drawn to the Division Bench pronouncement of this court reported at 2006 (88) DRJ837 Hari Gokal Jewellers v. Satish Kapur wherein on pleadings similar as the present, it was held as follows:

10. From the averments made in the plaint again there is no doubt that the plaint is vague, ambiguous and does not contain any of the necessary particulars. As already noticed, the plaint must contain complete facts or a bundle of facts, which would give rise to a cause of action as known and understood in law. No details of time, transaction, amount and account have been given in the plaint. The plaint only contains above 3 referred paragraphs, which in our view by no stretch of imagination can be said to be in conformity with the provisions of the Code. Not

only this, in the notice alleged to have been served upon the defendant, the plaintiff had claimed a definite amount of Rs.17,39,169/- with interest @12%. This demand was denied and disputed by the defendant in his reply dated 16th October, 2004. Both these notices are available on record of the trial Court. In the notice, the appellant had raised no claim with regard to any rendition of account and even in the notice, no such details were given. The facts stated in the notice have not even been averred in the plaint that jewelery worth Rs.15,79,169/- against receipt was given to the defendant by the plaintiff.

(Emphasis by us) 48. Learned counsel for the plaintiff has carefully taken us through the plaint as well as documents which were filed by him before the learned Single Judge. In the case in hand as well, other than vaguely pleading an oral agreement, the plaint does not even suggest the date, month or year when such agreement was arrived at between the parties. The appellant has set up a plea that the agreement to sell was for a sale of the flat in question. However, admittedly the promised agreement to sell never came into existence. No time or mode of execution of the conveyance or transfer of property is pleaded in the plaint nor is discernible from any of the averments or the documents filed by the appellant.

49. The assertions in the plaint set out above as well as the documents relied upon by the plaintiff would show that the plaintiff has failed to disclose existence of any valid/enforceable agreement to sell entered into or executed between the parties in his favour with regard to the suit property. Even if it could have been held that there was any agreement to sell, none of the essential terms thereof are disclosed. The plaintiff is unable to point out any date or time when he came to occupy the suit property or to support it by any averment in the plaint or document. The letter from the defendant (relied upon by the plaintiff) is too contrary. It is trite that only lawful settled possession would be protected by law. The plaintiff has therefore, been unable to displace any of the findings of the learned Single Judge or the conclusion that the plaint failed to disclose cause of action. Stage at which court would exercise jurisdiction under Order VII Rule 11 CPC⁵⁰ Mr. Suman Doval, learned counsel for the appellant finally placed an objection of desperation contending that it was not open to the court to reject the plaint after the defendant

had been summoned in the case and had filed its pleading by way of written statement.

51. In this regard, reference needs to be made to the judgment of the Supreme Court reported at (1999) 3 SCC267D. Ramachandran v. R.V. Janakiraman wherein the court reiterated the settled position in law in the following terms:

132. It is trite that a party should not be unnecessarily harassed in a suit. An order refusing to reject a plaint will finally determine his right in terms of Order 7 Rule 11 of the Code of Civil Procedure.

133. The idea underlying Order 7 Rule 11(a) is that when no cause of action is disclosed, the courts will not unnecessarily protract the hearing of a suit. Having regard to the changes in the legislative policy as adumbrated by the amendments carried out in the Code of Civil Procedure, the courts would interpret the provisions in such a manner so as to save expenses, achieve expedition and avoid the court's resources being used up on cases which will serve no useful purpose. A litigation which is in the opinion of the court is doomed to fail would not further be allowed to be used as a device to harass a litigant. (See Azhar Hussain v. Rajiv Gandhi 1986 Supp SCC315SCC at pp. 324-35.) (Underlining by us) 52. We may also refer to the observations of the Supreme Court in para 20 of the pronouncement reported in (2004) 3 SCC137Sopan Sukhdeo Sable &Ors. v. Assistant Charity Commissioner &Ors. While considering the mandate of Rule 11 of Order VII of the CPC, in para 29, the Supreme Court authoritatively laid down as the duty of the court to proceed to reject the plaint when the conditions statutorily prescribed are satisfied:

20. ...Rule 11 of Order VII lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word 'shall' is used clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event,

rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13.

(Emphasis supplied) 53. The answer to the challenge by appellant is best answered in the observations of the Division Bench of this court in (2006) 88 DRJ837Hari Gokal Jewellers v. Satish Kapur wherein the court held as follows:

4. While terming the arguments of the appellant as misplaced and misconceived in law, counsel appearing for the respondent supported the judgment and decree of the trial Court in addition to the reasons stated therein on the ground that the plaint is vague and vexatious; the suit is without any cause of action and that the defendant had a right to file application under Order 7 Rule 11 of the Code for rejection of plaint at any stage of the suit. It was further stated that summons served upon the defendant were not for framing of issues but in any case such an argument would be without basis. It is the contention of the respondent that in accordance with the settled principles of law, the trial Court has not fallen in any error of law or jurisdiction in passing the impugned judgment.

5. Firstly we may refer to the plaint filed by the plaintiff/appellant. Under Order 2 of the Code of Civil Procedure, the plaint as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and must prevent further litigation. The plaint should include the whole cause of action. All parties necessary to the suit be impleaded. The plaint must disclose cause of action and there has to be proper joinder of cause of action. It is settled principle of law that the plaint filed by the plaintiff should neither be vague nor vexatious. It is the abundant duty of the plaintiff to clearly and unambiguously plead his case. It must clearly spell out the cause of action and the reliefs claimed against which of the defendants. xxx

54. On this aspect reference may be made to the pronouncement of the Supreme Court reported at (2003) 1 SCC557Saleem Bhai & Ors. v. State of Maharashtra & Ors. wherein the Supreme Court held as under:

9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in

the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit - before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from nonexercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspects.

(Emphasis by us) 55. The mandate of the Supreme Court therefore in unambiguous terms is that an order of the trial Court directing the defendants to file written statement without deciding the application under Order VII Rule 11 of CPC is contrary to the scheme of the Code and is a procedural irregularity. As noted above, no application is necessary for the court to exercise jurisdiction and to conduct the scrutiny to ascertain whether the plaint discloses a cause of action or not. This, thus, is the primary and fundamental duty of every court.

56. On this aspect, in *Popat and Kotecha Property* (supra), in para 23, the court held as follows:

"23. Rule 11 of Order VII lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word 'shall' is used clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13."

(Emphasis supplied) 57. It therefore, needs no reiteration that the provisions of Order VII Rule 11 of the Code of Civil Procedure are imperative and if the plaint discloses no cause of action, it has to be rejected at the earliest. The fact that the defendant has entered appearance and filed his written statement is of no relevance and is absolutely inconsequential. There is no question of proceeding to trial with a plaint which discloses no cause of action. We could have dismissed the present appeal in the light of the above discussion. However, parties pressed arguments on two additional aspects which were heard and are considered hereafter. Plaint barred by the law of limitation and therefore, liable to be rejected under Order VII Rule 11 (d) of the Code of Civil Procedure 58. During the course of hearing one important question was raised. It was pointed out that suit was hopelessly barred by limitation and therefore would be required to be rejected under Order VII Rule 11(d) of CPC as barred by law as well. We have discussed at length the vague pleadings in the plaint and the failure to disclose any date on which agreement was reached between the parties or terms thereof. We have heard learned counsels for both sides at length on this aspect as well.

59. It is trite that a suit filed beyond the prescribed period of limitation under the Limitation Act is barred by law.

60. The question as to whether a suit is barred by limitation or not depends upon the facts and circumstances of each case. For assessing as to whether the suit claim is barred by law for the purposes of Order VII rule 11(d) of the CPC also only the averments in the plaint and documents relied upon by the plaintiff are relevant. At this stage, the court cannot consider the case of the defence. (Ref. (2007) 14 SCC183C. *Natrajan v. Ashim Bai & Anr.*; 2005 (7) SCC510 *Popat and Kotecha Property v. State Bank of India Staff Association*).

61. Mr. Suman Doval, learned counsel for the plaintiff has placed reliance on the pronouncement of the Supreme Court reported at (2006) 3 SCC634 *Gunwant Bhai Mulchand Shah & Ors. v. Anton Elis Farel & Ors.* to urge that there is no illegality if no date has been fixed for subsequent performance of the contract. It is urged that in order to conclude the date from which limitation for filing the suit which was for specific performance of an agreement to sell, had to commence, the court had to

find the date on which the plaintiff had notice that the performance was refused. Our attention is drawn to para 12 of this precedent which reads as follow:

"2. The question as to how long a plaintiff, even if he had performed the whole of his obligations under an agreement for sale, in which a time for performance is not fixed, could keep alive his right to specific performance and to come to court after 29 years seeking to enforce the agreement, may have also to be considered by the court especially in the context of the fact that the relief of specific performance is discretionary and is governed by the relevant provisions of the Specific Relief Act. But again, these questions cannot be decided as preliminary issues and they are not questions on the basis of which the suit could be dismissed as barred by limitation. The question of limitation has to be decided only on the basis of Article 54 of the Limitation Act and when the case is not covered by the first limb of that Article, normally, the question of limitation could be dealt with only after evidence is taken and not as a preliminary issue unless, of course, it is admitted in the plaint that the plaintiffs had notice that performance was refused by the defendants and it is seen that the plaintiffs approached the court beyond three years of the date of notice. Such is not the case here."

62. In the present case, by the letter dated 5th of April, 2002, the defendant was in fact calling upon the respondent for his quotation of a price for the flat. Therefore even if it could be held that the plaint discloses a valid and confirmed agreement to sell arrived at in 2001 as pleaded, the para 3 of the letter dated 5th of April, 2002 reproduced hereinabove clearly shows that the defendant had unequivocally repudiated the same. RFA(OS) 115/2014 to a clear repudiation of such agreement and declared his refusal to even acknowledge let alone perform any agreement if one existed.

63. Therefore, so far as an agreement to sell in the year 2001 is concerned, then this letter by itself would have given cause of action to the appellant to file the suit for specific performance of the alleged agreement against the respondent. No other or further agreement to sell is pleaded by the appellant. In the present case the plaintiff cannot lead evidence on what is not pleaded. The judgment in *Gunwant Bhai Mulchand Shah*(supra) requiring evidence, to be led for deciding

the issue of limitation was rendered in the facts of that case. It does not lay down any absolute proposition of law that recording of evidence is a sine qua non for deciding whether every suit is barred by law or not.

64. Article 3 of the Schedule to the Limitation Act prescribes the limitation of three years for filing the suit for specific performance from the date when the seller refuses to perform his part of the agreement. Such limitation would in the present case have, therefore commenced on the receipt of the letter dated 5th of April, 2002 from the respondent. The period of limitation of three years therefrom would have come to an end in April, 2005. No further material to so conclude is required in the face of the averments in the plaint and the document of the plaintiff. The suit filed on 31st of July, 2009 thus was hopelessly barred by limitation on this date. The plaint was therefore also barred by law and liable to be rejected under Order VII Rule 11(d) of the CPC as well. Discretion to decree specific performance 65. The plaintiff has couched the prayer in the plaint as seeking a direction, that is, as a mandate or a command to the defendant to execute the registered document of conveyance in his favour. Such prayer is premised on the plea that the parties had entered into an agreement to sell for the flat. The same is really in the nature of a decree for specific performance of the agreement to sell which contains a covenant to execute such conveyance. The plaint does not disclose any details or term of the agreement to sell. It is well settled that specific performance would not be granted if the agreement itself suffers from some deficiency which makes it invalid or unenforceable. Certainly the court cannot presume terms of agreement and direct enforcement thereof.

66. It is urged that in the present case even if it could be held that there was a valid agreement to sell executed by the defendant in favour of the plaintiff, the plaintiff would not be entitled to a decree as prayed for in the light of the principles laid down by the Supreme Court in 1987 Supp SCC340 Parakunnam Veetil Joseph's Son Mathew v. Nedumbara Kuruvila's Son & Ors. wherein the court held as follows:

Section 20 of the Specific Relief Act, 1963 preserves judicial discretion to Courts as to decreeing specific performance. The Court should meticulously consider all

facts and circumstances of the case. The Court is not bound to grant specific performance merely because it is lawful to do so. The motive behind the litigation should also enter in the judicial verdict. The Court should take care to see that it is not used as an instrument of oppression to have an unfair advantage to the plaintiff.

67. In a pronouncement reported at (2001) 6 SCC600A.C. Arulappan v. Ahalya Naik (Smt.), the court held as follows:

7. The jurisdiction to decree specific relief is discretionary and the court can consider various circumstances to decide whether such relief is to be granted. Merely because it is lawful to grant specific relief, the court need not grant the order for specific relief; but this discretion shall not be exercised in an arbitrary or unreasonable manner. Certain circumstances have been mentioned in Section 20(2) of the Specific Relief Act, 1963 as to under what circumstances the court shall exercise such discretion. If under the terms of the contract the plaintiff gets an unfair advantage over the Defendant, the court may not exercise its discretion in favour of the plaintiff. So also, specific relief may not be granted if the Defendant would be put to undue hardship which he did not foresee at the time of agreement. If it is inequitable to grant specific relief, then also the court would desist from granting a decree to the plaintiff.

68. In 1987 Supp. SCC75 Damacherla Anjaneyulu & Anr. v. Damcherla Venkata Seshiah & Anr., the High Court declined to grant a decree for specific performance in favour of the plaintiff, even though the defendant was guilty of breach of agreement. That was a case where the defendant had constructed costly structures and if a decree for specific performance was granted in favour of the plaintiff, the defendant would have been put to special hardship. The Supreme Court directed the defendant to pay compensation to the plaintiff.

69. Our attention is drawn to a decision reported at (1996) 5 SCC589 Lourdu Mari David & Ors. v. Louis Chinnaya Arogiaswamy & Ors. wherein the plaintiff, who sought a decree of specific performance of an agreement to purchase immovable property, filed the suit with incorrect and false facts. In the plaint, it was alleged that the plaintiff was already given possession of Door No.2/53 as a lessee and he

was given possession of Door No.1/53 on the date of the agreement itself. But he did not give any evidence that he had got possession of Door No.1/53 on the date of agreement. It was found that his case as regards Door No.1/53 was false. He also alleged that he had paid `400/- in addition to the sum of `4,000/- paid as advance, but this was proved to be an incorrect statement. He alleged that the third defendant had inspected the house during the course of negotiations, but this also was found to be false. The court held that it is settled law that the party who seeks to avail of the jurisdiction of a court and specific performance being equitable relief, must come to the court with clean hands. In other words, the party who makes false allegations, does not come with clean hands and is not entitled to the equitable relief.

70. In (2000) 7 SCC548 Gobind Ram vs. Gian Chand, it was observed in paragraph 7 of the judgment that grant of a decree for specific performance of contract is not automatic and is one of the discretion of the court and the court has to consider whether it would be fair, just and equitable. The court is guided by the principles of justice, equity and good conscience.

71. The discussion by the learned Single Judge with regard to the averments in the plaint which have been also noticed by us above, as well as documents filed by the appellant - plaintiff clearly establish that appellant had not filed the plaint with clean hands.

72. We may usefully refer to the observations of the Supreme Court in the case reported at AIR 1994 SC853S.P. Chengalvaraya Naidu (dead) by LRs. v. Jagannath (dead) by LRs and Ors. wherein the court considered the effect of a plaintiff failing to plead material facts or to place the material documents before the court. It was held as follows:

7. ... We do not agree with the High Court that there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence. The principle of finality of litigation cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often

than not, process of the court is being abused. Property-grabbers, taxevaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.

73. In para 8 of the case, it was further observed as follows:

6. ... A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. xxx A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.

(Emphasis supplied) 74. In the instant case, even in the prayer clause, the plaintiff does not disclose any details of the alleged agreement to sell. The plaintiff having concealed material facts from the court as well as having set up a fraudulent plea is disentitled to any relief and was in any case liable to be non-suited summarily. Conclusions 75. During the course of his submissions, Mr. Doval buttressed his arguments repeatedly advertent to the education and training of the appellant as a highly qualified professional employed with one of the topmost corporate houses of the country. The responsibility to make only lawful claims upon true and fair factual disclosures rests more stringently on those so positioned in society.

76. The appellant has gone to the extent of propounding an agreement to make payments towards immovable property way beyond the life expectation of a normal human being.

77. The present appeal premised on a baseless claim is a clear abuse of the process of law to grab property over which the appellant has no right is a conscious breach of such duty and is similar to that noticed in para 7 of S.P. Chengalvaraya Naidu (supra). The appellant has caused wastage of precious judicial time and is consequently liable to be burdened with heavy costs. Result

78. We find no merit at all in the challenge to the judgment dated 1 st of July, 2014 of the learned Single Judge. The present appeal is, therefore, dismissed with costs which are quantified at `75,000/-. CM No.12344/2014 (Stay) In view of the order passed in the main case, this application does not survive for adjudication and is therefore, dismissed. (GITA MITTAL) JUDGE (SUNIL GAUR) JUDGE NOVEMBER07 2014 mk

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