



2026:DHC:4408



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

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*Reserved on: 27<sup>th</sup> March, 2026  
Pronounced on: 18<sup>th</sup> May, 2026*

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**RFA 472/2022**

**NARENDER KUMAR GOLA**

S/o Sh. Ram Kishan Gola,

R/o S-39, 3rd Floor, Pandav Nagar, Delhi.

.....Appellant

Through: Mr. Praveen K. Chauhan, Ms. Deepti Dogra, Ms. Karishma Rao, Mr. Narender Chauhan and Ms. Garvita Verma, Advocates.

versus

**1. KISHITIZ GOEL**

**2. NILANSH GOEL**

Both S/o Sh. Shiv Sagar Goel,

Both R/o J-3, Leela Homes, Sector-4,

Vaishali, Ghaziabad, U.P.

.....Respondents

Through: Mr. Rishav Dubey and Mr. Manish Kumar, Advocates.

Mr. Shaad Anwar, Ms. Shabnam Farooqui and Mr. Parvez Alam, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

**1. Regular First Appeal** under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been preferred by the *Plaintiff/Appellant Mr. Narendra Kumar Gola* against the Judgment dated **22.02.2021** and Decree dated **30.10.2021**, whereby the



Suit for Recovery of Rs.11,00,000/- filed by the Plaintiff under Order XXXVII of CPC, *has been rejected*, under Order VII Rule 11 of the CPC, by the Learned Additional District Judge.

2. The **Brief facts** as stated in the Plaint, were that Plaintiff was an absolute owner of Property bearing Plot No.4, Sector 4, Vaishali, Ghaziabad, Uttar Pradesh (*hereinafter referred to as "Suit Property"*). Subsequently, the Plaintiff entered into an Agreement to Sell dated **14.04.2019** for the Suit Property for a sale consideration of Rs.1,20,00,000/-, with the Defendants. However, at the time of execution of the Sale Deed dated **23.09.2019**, the Defendants cunningly convinced the Plaintiff to show the sale consideration as Rs.66,12,000/- in the Sale Deed, in order to avoid certain taxes. It is claimed by the Plaintiff that he could not sense the *mala fide* and dishonest intention of the Defendants and fell into their trap.

3. It was further claimed by the Plaintiff that the Defendants had already paid an amount Rs.1,09,00,000/- and thereafter, issued three post-dated cheques dated **23.09.2019**, out of which two were of Rs.5,00,000/- each and one for a sum of Rs.1,00,000/-, at the time of registration of the documents. All the aforesaid cheques were towards payment of balance amount of Rs.11,00,000/- from the actual sale consideration.

4. However, Defendants requested the Plaintiff to deposit the said cheques for encashment after a period of three months and assured that the cheques would be honoured at the time of their presentation. However, the aforesaid cheques, on presentation got dishonoured *vide* Return Memos dated **23.12.2019** and **31.12.2019**.



5. The Plaintiff, thereafter, approached the Defendants and apprised them about the dishonour of said cheques. However, the Defendants kept on delaying the payment on one pretext or the other.

6. The Plaintiff, thus, served the Defendants with a Legal Notice dated **03.01.2020**, to which a Reply dated **14.01.2020** was given wherein the Defendants claimed that the sale consideration for the Suit Property was Rs.66,12,000/-, which already stood paid.

7. *The Plaintiff thus, filed a Suit for Recovery bearing No. 53/2021 under Order XXXVII of CPC for recovery of Rs.11,00,000/-.*

8. **The Learned District Judge in the Judgment dated 22.02.2021**, observed that even though in the Agreement to Sell dated 14.04.2019, the sale consideration was mentioned as Rs.1,20,00,000/-, however, in the Sale Deed dated 23.09.2019, the sale consideration mentioned was Rs.66,12,000/-, which implied that *there was a novation of the original Agreement in terms of Section 62 of the Indian Contract Act, 1872.*

9. It was thus, not open to the Plaintiff to claim that the actual sale consideration was Rs.1,20,00,000/-. Such a contention was in the teeth of the bar contained in Sections 91 and 92 Indian Evidence Act, 1872. Reference was made to *Om Prakash vs. IOCL Officers Welfare Society and Another*, 2019 SCC OnLine Del 6719, *Jai Bhagwan vs. Rajesh*, 2008 Indlaw Delhi 419.

10. **The Learned District Judge held** that once the Sale Deed clearly reflected that the entire payment of Rs.66,12,000/- had been made by the Defendants, the claim of the Plaintiff that the cheques had been issued for



payment of the balance sale consideration, was not tenable and *the Suit for Recovery filed by the Plaintiff was rejected.*

**11.** *Aggrieved by the Judgment dated 22.02.2021 and Decree dated 30.10.2012, the Plaintiff has preferred **the present Regular First Appeal** under Section 96 read with Order XLI Rule 1 of CPC.*

**12.** The **grounds of challenge** are that in the Agreement to Sell dated 14.04.2019, it was clearly indicated that the sale consideration for the Suit Property was Rs.1,20,00,000/- and the Respondents had already paid a sum of Rs.1,09,00,000/- on the date of the execution of the Sale Deed, while the three cheques had been issued by the Defendants for the balance amount of Rs.11,00,000/-.

**13.** If it was to be accepted that the total sale consideration was Rs.66,12,000/-, there were no requirement for the Defendants to have made a payment of Rs.1,09,00,000/-, which itself reflects that the actual sale consideration, mutually agreed between the parties was Rs.1,20,00,000/- and the three cheques had been issued towards the payment of the balance sale consideration. In the *Plaint*, it was specifically pleaded that after negotiations, the sale consideration for the Suit Property was agreed at Rs.1,20,00,000/-, though the sale consideration of Rs.66,12,000/- was mentioned in the Sale Deed, for the Defendants to avoid taxes.

**14.** It was further contended that the Plaintiff has not been given an opportunity to explain the actual sale consideration and the Suit has been out rightly rejected. The Appellant/Plaintiff ought to have been given an opportunity to the to prove his case and it was only at the stage of evidence



that Sections 91 and 92 of India Evidence Act, 1872 would have come into the picture.

**15.** The Learned District Judge has also not considered the fact that the sale bargain had to be completed within three months from 14.04.2019 to 13.07.2019. However, the Defendants kept on extending the time period on one pretext or the other.

**16.** The Learned District Judge therefore, has not appreciated the facts of the case correctly and has erroneously rejected the Suit of the Plaintiff. *Hence, the impugned Judgments dated 22.02.2021 and Decree dated 30.10.2021 is liable to be set aside.*

**Submissions heard and record perused.**

**17.** It is the case of the Plaintiff himself that, in the Agreement to Sell dated **14.04.2019**, the sale consideration was mentioned as Rs.1,20,00,000/-. However, in the Sale Deed dated **23.09.2019** which was executed subsequently, the total sale consideration was mentioned as Rs.66,12,000/-.

**18.** The Plaintiff further claimed that a total sum of Rs.1,09,00,000/- had been paid by the Defendants to him by way of cash and through cheques and a balance amount of Rs.11,00,000/- remained, for which three cheques had been given by the Defendants.

**19.** While the parties may have earlier negotiated for a sale consideration of Rs.1,20,00,000/- for the Suit Property, as mentioned in the Agreement to Sell dated **14.04.2019**, however, at the time of execution of the Sale Deed dated **23.09.2019**, the sale consideration mentioned was Rs.66,12,000/-.

**20.** In the present case, the Learned District Judge has rightly observed that from the documents executed between the Plaintiff and the Defendants,



it was evident that there was a novation of the contract in terms of Section 62 of the Indian Contract Act, 1872 and the final sale consideration as negotiated was Rs.66,12,000/-.

**21.** The Learned District Judge has further rightly observed that the terms of written documents cannot be ignored and overlooked in the light of Sections 91 and 92 of Indian Evidence Act. Section 91 of the Indian Evidence Act, 1872 states that, *when the terms of a contract of any other disposition of property, have been reduced to the form of a document, no evidence shall be given in proof of the terms of such contract.*

**22.** Section 92 of the Indian Evidence Act, 1872 excludes oral evidence which states that, *when the terms of any such contract, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument.*

**23.** In the present case, the duly registered Sale Deed was admittedly executed between the Plaintiff and the Defendants, wherein the sale consideration was clearly mentioned as Rs.66,12,000/-. Any evidence that may be led by the Plaintiff, would be contrary to the registered documents and will be barred under Sections 91 and 92 of Indian Evidence Act, 1872.

**24.** In the case of Om Prakash vs. IOCL Officers Welfare Society and Another, 2019 SCC OnLine Del 6719, it was held that once a registered Sale Deed records that the entire agreed sale consideration stands paid, a Suit for Recovery seeking recovery of balance sale consideration, will be barred by Sections 91 and 92 of the Indian Evidence Act, 1872.

**25.** Similarly in Jai Bhagwan vs. Rajesh, 2008 Indlaw Delhi 419, a Suit seeking Cancellation of a Registered Sale Deed, on the ground that the entire



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sale consideration had not been paid, was dismissed by observing that once the Plaintiff had signed the registered Sale Deed, he cannot seek cancellation of the same, on the ground that he had not read the contents thereof.

**26.** It is also pertinent to note that according to the case of the Plaintiff, there were cash transactions undertaken by the Defendants in order to avoid payment of tax and duty. Once it is shown that the purpose was to avoid the liability under law, the Plaintiff cannot seek redressal in the Court for implementation of the said transactions. Therefore, the Learned District Judge has rightly rejected the Suit filed by the Plaintiff, as not disclosing any cause of action.

**27.** In view of the aforesaid discussion, there is no merit in the present Appeal, which is hereby, **dismissed** along with pending Applications.

**(NEENA BANSAL KRISHNA)  
JUDGE**

**MAY 18, 2026/R**