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

\+ RFA(OS) 67/2018

M/S ANGAD DEVELOPERS PVT LTD ..... Appellant
Through: Mr.K.Datta with Mr.Kapil Gupta, Advocates

versus

M/S VERSATILE COMMOTRADE PVT LTD ..... Respondent
Through: Mr.Nikhilesh Krishnan with
Mr.Aman Prasad, Advocates

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

O R D E R

% 12.09.2018

Cav. 836/2018

Counsel for the respondent enters appearance. Accordingly, the caveat petition is disposed of.

CM No.37141/2018

Exemption allowed subject to all just exceptions.

RFA(OS) 67/2018 & CM No.37140/2018

The parties have entered into an agreement to sell dated 21st April, 2013 with respect to land measuring 14 Bighas, 12 Biswas falling within the revenue estate of Village Ujjwa, Tehsil Nazafgarh, Haryana for a total sale consideration fixed as Rs.3,41,00,000/- per acre amounting to Rs.10,37,20,833/-. Since the appellant herein did not comply with the terms of the agreement as alleged by the respondent, a suit under Order 37 was instituted. The application for leave to defend has been decided in two parts while for the amount of Rs.75 lakhs, a decree has been passed, for an amount of Rs. 1.25 lakhs, which was paid as earnest money, conditional leave has been granted by furnishing of security.

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Mr.Datta, learned counsel appearing for the appellant submits that firstly a suit under Order 37 would not be maintainable and secondly till the issues are framed and it is decided as to who has committed the breach of the contract, the appellant cannot be called upon to either furnish security neither a decree could have been passed for a sum of Rs.75 lakhs.

It is further submitted that the suit under Order 37 would not lie as neither there is any acknowledgement of debt and nor there is any agreement to pay the amount unconditionally.

Notice.

Counsel for the respondent accepts notice.

On providing security for a sum of Rs. 75 lakhs within a period of four weeks, the operation of the impugned order is stayed.

List on 19th November, 2018.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 12, 2018
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