2026:DHC:9302

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

% Judgment Reserved on*: 24.07.2026*
Judgment delivered on*: 16.10.2026*
Judgment uploaded on*: 17.10.2026*

\+ CS(COMM) 187/2022 & I.A. 4770/2022 I.A. 11515/2022 I.A. 17921/2022 I.A. 19975/2022 I.A. 20735/2022 I.A. 20736/2022 I.A. 9121/2024 I.A. 47243/2024 I.A. 6667/2025 I.A. 8262/2025 I.A. 434/2026 O.A. 77/2024

ANIL KUMAR AGRAWAL .....Plaintiff

Through: Mr. Ravi Gupta, Senior Adv. Mr. Akshat Nayyar and Mr. Aman Vasisth, Advs.

versus

MRS NASIRA BEGUM ALIAS MRS.NASRA BEGUM & ORS.
.....Defendants

Through: Mr. Zia-Ul-Islam, Adv. for D-1

Mr. Anuj Handa, Mr. Samya Handa, Mr. Ayush Vishwakarma, Mr. Shubham Pandey, Advs. for D-2, D-3 and D-5

Mr. Samar Khan, Mr. Tanvir Nayar and Mr. Abhishek Bakshi, Advs. for D-4

Mr. Nikhil Rohatgi and Mr. Tanishq Kashyap, Advs. for D-6 and D-7

Mr. Vidit Gupta and Mr. Trivesh Sharma, Advs. for D-9

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CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. No. 1021/2022, I.A. No. 10197/2022 & I.A. No. 11515/2022

1. At the outset, it is noted that the updated amended memo of parties recording the appropriate deletions and impleadment of parties has not been placed on record. The Plaintiff has handed over an amended memo of parties dated 07.09.2026, after the judgment had been reserved. The parties have been referred to in the judgment in terms of the said amended memo of parties. The Plaintiff is directed to place the said amended memo of parties on record.

I.A. No. 1021/2022 has been filed by Defendant No. 2, Defendant No. 3 and Defendant No. 5, under Order 1 Rule 10 of the Code of Civil Procedure, 1908 [‘CPC’], seeking deletion from the array of parties.

2. I.A. No. 10197/2022 has been filed by Defendant No. 4 under Order 1 Rule 10 of CPC, seeking deletion from the array of parties.

3. I.A. No. 11515/2022 has been filed by Defendant No. 6 and Defendant No. 7 under Order 1 Rule 10 of CPC, seeking deletion from the array of parties.

OVERVIEW OF THE DEFENDANTS [AS PER THE AMENDED MEMO OF PARTIES DATED 07.09.2026]

4. Defendant No. 1/Nasira Begum was the absolute owner of the commercial property being Shop No. N-4, measuring about 1165 square feet on the ground floor, with an inside Mezzanine and Balcony measuring

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800 square feet, situated at Connaught Place, New Delhi- 110001 ['suit property'].

4.1. Defendant No. 2/Shakil Ahmed and Defendant No. 5/Md. Shanwaz Ali are the relatives of Defendant No. 1.

4.2. Defendant No. 3/Md. Mohsin Qureshi is the son of Defendant No. 1. Defendant No. 4/Md. Sohab Ahmed Qureshi is the son-in-law of Defendant No. 1.

4.3. Defendant No. 6/Mr. Rajendra Singh Kochar, Defendant No. 7/Mr. Sahib Singh and Mr. Abhinandan Kumar Jain [former Defendant[1]] are property brokers, who introduced the Plaintiff to Defendant Nos. 1 to 5.

4.4. The original plaint is dated 22.03.2022. Defendant Nos. 2 to 7 filed their applications for deletion from the array of parties in 2022. The Plaintiff thereafter filed an amended plaint dated 07.04.2025 to incorporate allegations justifying the impleadment of a newly added party M/s Exclusive Stores Pvt. Ltd., and to plead additional facts *qua* the Applicants/Defendants.

M/s Exclusive Stores Pvt. Ltd. was impleaded as Defendant No. 8[2] *vide* order dated 08.04.2025.

FACTUAL MATRIX AS PER THE PLAINT

5. It is averred that the Plaintiff, who is a resident of Patna, Bihar, while searching for a property in Delhi, was approached by Defendant Nos. 6, 7

[1] Mr. Abhinandan Kumar Jain was impleaded as Defendant No. 9 in the original plaint dated 22.03.2022 [Later became Defendant No. 8 as per the amended memo dated 26.08.2022, after the death of the erstwhile Defendant No. 2, i.e., Md. Kamal Qureshi]. The said Defendant's application for deletion was allowed by the Joint Registrar *vide* order dated 14.02.2024. O.A. No. 77/2024 has been preferred by the Plaintiff challenging the deletion of Mr. Abhinandan Kumar Jain, and the said Chamber appeal is pending.
[2] Defendant No. 9, as per the amended memo of parties dated 13.04.2024.

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and Mr. Abhinandan Kumar Jain, who represented that the suit property was available for sale, free from all encumbrances of any sort, and that Defendant No. 1 was the absolute owner thereof. It is stated that in the past as well, the Plaintiff has transacted with Defendant Nos. 6 and 7 for sale and purchase of immovable properties[3].

5.1. It is stated that after several meetings and negotiations with all the Defendants, Defendant No. 1 agreed to sell the suit property to the Plaintiff for a consideration amount of Rs. 7,00,00,000/-. It is alleged that the parties agreed that the Plaintiff would pay the entire consideration of Rs. 7,00,00,000/- *before* executing the agreement to sell. It is stated that in furtherance of the said agreement, the Plaintiff paid the full consideration amount of Rs. 6,93,00,000/- to Defendant No. 1, in four tranches in July, 2018 through bank transfers, after deduction of TDS[4] of Rs. 7,00,000/-. It is stated that thereafter, Plaintiff and Defendant No. 1 executed an agreement to sell dated 01.08.2018 ['2018 ATS'] recording the terms and conditions of sale.

5.2. It is averred that the symbolic possession of the suit property was handed over to the Plaintiff *vide* Symbolic Possession letter dated 01.08.2018, since the property was in actual physical possession of a tenant. It is further stated that Defendant No. 1 issued an Attornment Letter dated 01.08.2018 to the tenant, directing the tenant to remit future rent to the Plaintiff.

5.3. It is averred that Defendant No. 1 failed to execute the sale deed in pursuance of the 2018 ATS. It is stated that despite the Attornment Letter

[3] At paragraph no. 34(f) of the amended plaint.
[4] Tax Deducted at Source





dated 01.08.2018, the Plaintiff did not receive any rent from the tenant, nor was the tenant's security deposit transferred to the Plaintiff by Defendant No. 1. It is stated that in March, 2019, upon physically inspecting the suit property, the Plaintiff learnt that HDFC Bank had pasted a notice issued under Section 13 (2) of the SARFAESI Act, 2002[5], revealing that the suit property was not free from encumbrances.

5.4. It is stated that the Plaintiff, *vide* legal notice dated 20.07.2021, called upon all the Defendants to refund the principal amount of Rs. 6,93,00, 000/- along with interest. It is stated that on 28.10.2021, the Plaintiff filed a criminal complaint with the EOW[6] New Delhi, which is under ongoing investigation.

5.5. In these pleaded facts, the suit has been filed in March, 2022 for refund of the principal sum of Rs. 6,93,00,000/- paid over to Defendant No. 1 along with pre-suit interest at 12% with effect from 01.08.2018 till 01.03.2022 and pendente lite interest from the date of institution. The Plaintiff has stated that due to the COVID pandemic, he could not approach the Court immediately and therefore seeks exclusion of the period commencing from 15.03.2020 till 28.02.2022 for computation of limitation.

SUBMISSIONS BY THE PARTIES

Submissions by Applicants/Defendant Nos. 2, 3, and 5 in I.A. No. 1021 of 2022

6. Mr. Anuj Handa, learned counsel for the said Applicants/Defendants, stated that the 2018 ATS was executed between the Plaintiff and Defendant No. 1, and the said Defendants were neither a party to the 2018 ATS nor had they received any part of the consideration amount from the Plaintiff.

[5] Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
[6] Economic Offence Wing

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He stated that the entire consideration was paid to Defendant No. 1. He stated that the Plaintiff has no cause of action against the said Applicants/Defendants.

6.1. He stated that Defendant Nos. 2 and 3 had signed the 2018 ATS only in the capacity of attesting witnesses, while Defendant No. 5 was not even an attesting witness to the 2018 ATS. He stated that the said Applicants/Defendants have been impleaded only because they are the relatives of Defendant No. 1.

6.2. He stated that the said Applicants/Defendants are not necessary for the final decision of the subject matter involved in the suit. In this regard, he placed reliance on the judgment of the Supreme Court in **Kasturi v. Iyyamperumal**[7]. He stated that in these facts the said Applicants/Defendants ought to be deleted from the array of parties as they are neither necessary nor proper parties.

Submissions by Applicant/Defendant No. 4 in I.A. No. 10197 of 2022

7. Mr. Samar Khan, learned counsel for Defendant No. 4, stated that the said Defendant is neither a party nor an attesting witness to the 2018 ATS, and the said Defendant did not receive any part of the consideration amount from the Plaintiff in furtherance of the same.

7.1. He stated that none of the documents, including the 2018 ATS filed by the Plaintiff, bear the name and signature of Defendant No. 4, in any capacity whatsoever. He stated it is an admitted fact that Defendant No. 4 was never the owner or in any way related to the suit property, which forms the subject of the alleged ATS.

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7.2. He stated that as per the doctrine of privity of contract, no relief can be sought by a person against a party with whom there is no contractual obligation or who is a stranger to a contract. He stated that there is no business relationship or privity of contract between Defendant No. 4 and the Plaintiff. He stated that since there is no contract, there cannot be any relief which can be sought by the Plaintiff against the said Defendant, and therefore Defendant No. 4 is neither a proper nor a necessary party to the suit.

7.3. He stated that there is not even a single averment in the plaint which is specific to Defendant No. 4, except the wrongful use of the term 'Defendants' in making general allegations just to wrongly include all the Defendants and make substantive pleadings. He stated that the said Defendant at best could only have been made a witness in the trial.

7.4. He stated that the present suit is a simpliciter suit for recovery of money, and there is no prayer for breach of any guarantee or assurance by any Defendant. In the absence of such a prayer, the suit is not maintainable against Defendant No. 4, and thus Defendant No. 4 ought to be deleted from the array of parties.

Submissions by Defendant Nos. 6 and 7 in I.A. No. 11515 of 2022

8. Mr. Nikhil Rohatgi, learned counsel for Defendant Nos. 6 and 7, stated that the entire consideration for the ATS has been paid by the Plaintiff directly to Defendant No. 1, and no amount has been paid to the said Defendants. He stated that since no cause of action has arisen against the said Defendants, they are neither necessary nor proper parties.

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[7] 2005 6 SCC 733

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8.1. He stated that even as per the Plaintiff, no amount was paid to the said Defendants either as consideration under the ATS or as brokerage. He stated that in these facts, Defendant Nos. 6 and 7 ought to be deleted from the array of parties.

8.2. He stated that the Plaintiff, having entered into the 2018 ATS and paid a sum of Rs. 6,93,00,000/-, was bound to exercise basic due diligence and is deemed to have notice of the title of Defendant No. 1 and/or any charge over the property by virtue of Section 3 of the Transfer of Property Act, 1882 ['TP Act']. The Plaintiff's claim of having made the entire payment even before execution of the said ATS, without verifying the seller's title, is therefore untenable.

8.3. He stated that the entire cause of action in the suit is vexatious. He submitted that the Plaintiff has, indeed, acquired the suit property through Defendant No. 8. He relied upon the submissions made by Defendant No. 1 in her written statement contending that the suit property, on the instructions of the Plaintiff, has been sold to Defendant No. 8 in 2021, prior to the institution of the present suit. Defendant No. 1 has referred to the statements of Mr. Abhishek Kedia, the Director of Defendant No. 8. He relied upon the contents of the written statement filed by Defendant No. 8, which shows an existing commercial relationship between the Plaintiff and his family members with Defendant No. 8, as well as entities controlled by Mr. Abhishek Kedia.

8.4. He stated that Defendant Nos. 6 and 7 relied upon the documents filed by Defendant No. 8 along with its written statement dated 07.05.2025 to contend that substantial amounts were transferred to Defendant No. 8 from persons and entities connected with the Plaintiff and his family. This is

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important in view of the comparatively low sales and profits of Defendant No. 8, including sales of Rs. 45,82,000/- and a net profit of Rs. 5,61,462/- in FY 2018-19, and the income of Mr. Abhishek Kedia of Rs. 12,26,121/- for AY 2020-21, which prima facie do not indicate an independent financial capacity of Defendant No. 8 or Mr. Abhishek Kedia to acquire the suit property.

8.5. He stated that the bank statements disclose, inter alia, transfers from Exclusive Store, the proprietorship concern of the Plaintiff's son Mr. Saksham Agrawal, to Defendant No. 8, including entries of Rs. 29,50,000/- dated 18.07.2018 and Rs.9,20,000/- dated 23.04.2019 described as 'TRF/EXCLUSIVE/SELF'. A further sum of approximately Rs. 96,15,000/- was transferred from the proprietorship concern of Mr. Sakhsham Agrawal to Defendant No. 8 between February and July 2019 and was thereafter used by Defendant No. 8 to purchase the suit property. The bank statements also disclose cash deposits by the proprietorship concern of Mr. Saksham Agrawal into Defendant No. 8's account.

8.6. He stated that the documents further disclose that Defendant No. 8 received approximately Rs. 1,23,35,000/- in June 2019 from another bank account of Defendant No. 8, which has not been disclosed to the Court.

8.7. He stated that the documents further disclose that Rs.5,24,31,367/- was shown by Defendant No. 8 as an advance under 'Trade Payables' from M/s Niharika Retail Pvt. Ltd., whereas the latter's financial statements reflect the same as a loan. The ledger further records total transfers of Rs.5,62,32,800/- from M/s Niharika Retail Pvt. Ltd. to Defendant No. 8 till 03.08.2019, which were utilised towards the suit property.

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8.8. He stated that the financial records also disclose transactions involving M/s Niharika Holdings Pvt. Ltd., in which the Plaintiff, his son and his wife collectively held 68.12% as on 31.03.2019 and in which the Plaintiff was a director. Defendant No. 8's audited financial statements describe M/s Niharika Holdings Pvt. Ltd. as a related party/associate concern. These records are material in assessing the relationship between Mr. Abhishek Kedia, Defendant No. 8, and the Plaintiff's family and the source of funds flowing into Defendant No. 8.

8.9. He stated that approximately Rs. 96,25,000/- was advanced to Defendant No. 8 by Mr. Vijay Kejriwal and Ms. Shashi Kejriwal. Ms. Shashi Kejriwal is the sister of the Plaintiff's wife; her son, Mr. Shashank Kejriwal, has business dealings with the Plaintiff's son and is a shareholder in Niharika Holdings Pvt. Ltd. The connection of these transactions with the wider network of persons and entities associated with the Plaintiff is, therefore, also relevant.

8.10. He stated that the documents filed in CS(OS) 644/2019 also bear upon the Plaintiff's knowledge of the encumbrance over the suit property. An email dated 17.08.2019 was sent from the email ID of Defendant No. 8 to nhplanil@gmail.com, which is linked to the Plaintiff's DIN in Niharika Holdings Pvt. Ltd., informing him of a payment of Rs. 6,00,000/- to M/s M.K. Overseas Pvt. Ltd. through HDFC Bank. The accompanying letter on Defendant No. 8's letterhead records that the payment was made towards the outstanding loan against the suit property and requests HDFC Bank to release the title documents and issue a No-Dues Certificate. These documents prima facie indicate that the Plaintiff, who was aware of the outstanding loan/encumbrance over the suit property, was participating in

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redemption.

8.11. He stated that the constitution of Defendant No. 8 also requires consideration. The documents disclose that Mr. Dilip Kumar Tibrewal, who held 19.56% shares in Defendant No. 8, had been associated with the Plaintiff for several years and was deputed at the Plaintiff's Tanishq showroom; his sons were also stated to be working at the Plaintiff's Tanishq showroom. Further, Mr. Umesh Tekriwal, whose wife is a shareholder in Defendant No. 8, is a Director in Exclusive Brands Pvt. Ltd., a company promoted by the Plaintiff's son. These circumstances bear upon the assertion that the shareholders of Defendant No. 8 were not independent of the Plaintiff and his family. There are cross-holdings between shareholders of Defendant No. 8 and companies controlled by the Plaintiff and his family members.

8.12. He stated that Defendant No. 8's Income Tax Return for F.Y. 2024-25 mentions Mr. Abhishek Kedia's mobile number, and the same number is stated to have been used in online marketing material for the Tanishq Store, Fraser Road, Patna, operated by M/s Flagship Store Pvt. Ltd., a company promoted by the Plaintiff, his wife and his son. Therefore, it is hard to believe the assertion that Mr. Abhishek Kedia and the Plaintiff were merely business competitors, and it raises a question regarding the nature of Mr. Abhishek Kedia's association with the Plaintiff and Defendant No. 8.

Submissions by the Plaintiff

9. Mr. Ravi Gupta, Senior Advocate and Mr. Akshat Nayyar, learned counsel for the Plaintiff, stated that Applicants/Defendant Nos. 2, 3, 4, 5, 6 and 7 [hereinafter collectively referred to as the 'Defendants'] are necessary

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and proper parties in the present suit, as without their presence issues cannot be effectually and properly adjudicated.

9.1. He stated that the cause of action against the Applicants/Defendants arose when the said Defendants falsely represented to the Plaintiff in the year 2018 that the suit property has a clear title free from any encumbrances, and is available for sale. He stated that the said Defendants had knowledge of the fact that the suit property is under an encumbrance with HDFC Bank and failed to disclose this fact to the Plaintiff.

9.2. He stated that the Defendants deliberately showed the Plaintiff *photocopies* of the suit property documents with a view to induce confidence in the transaction and represented, on the basis thereof, that the suit property had a clean and clear title. At the time of execution of the 2018 ATS, *photocopies* of all relevant documents, including the Sale Deed and the KYC documents of Defendant No. 1, were handed over to the Plaintiff in the presence of all these Defendants. Accordingly, the Defendants were fully aware of the subject transaction and were privy to and had witnessed the same from its very inception.

9.3. He stated that the cause of action arose when the Defendants extended false assurances to the Plaintiff as regards clear title of the suit property, thereby inducing the Plaintiff to execute the 2018 ATS, part with the agreed consideration and defraud and cheat the Plaintiff.

9.4. He stated[8] that Defendant Nos. 6, 7, and Mr. Abhinandan Kumar Jain have received payment in cash from the other Defendants, i.e., Defendant Nos. 1, 2, 3 and 5 for the subject transaction, which is the subject matter of

[8] Averred at paragraph no. 11 of the reply filed by the Plaintiff to I.A. No. 1021/2022

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the 2018 ATS.

9.5. He stated that it is also a matter of record that an FIR bearing no. 1/2022 under Sections 420, 406, and 120B of the Indian Penal Code, 1860, has already been registered against all the Defendants.

9.6. He stated that thus the Defendants have been properly impleaded as parties to the present suit and that they are jointly and severally liable to refund the amount of consideration paid by the Plaintiff to Defendant No. 1, along with interest thereon at the rate of 12% per annum. In these facts, he stated that the captioned applications ought to be dismissed.

COURT'S FINDINGS

10. This Court has heard the learned counsel for the parties and perused the record.

I. RELATIONSHIP OF THE PLAINTIFF WITH NEWLY IMPLEADED DEFENDANT NO. 8 [M/s EXCLUSIVE STORE PVT. LTD.]

11. Defendant No. 1 has filed her written statement dated 23.07.2022, and asserted that the suit property has been sold to Defendant No. 8 in view of the agreement to sell dated 24.07.2019 ['2019 ATS'], on the instructions of the Plaintiff. It is stated that the Plaintiff was fully aware of the encumbrance on the suit property and he participated in the negotiations with HDFC Bank for the release of the suit property from the mortgage. It is stated that the Plaintiff represented to Defendant No. 1 that the amount payable to HDFC Bank for redeeming the suit property has been arranged by him through a separate entity, i.e., Defendant No. 8. It is stated that the 2019 ATS executed with Defendant No. 8 is in continuation of the 2018 ATS and forms part of one single transaction. It is stated that the sale deed in favour of Defendant No. 8 stands executed on 07.01.2021, prior to the





filing of the suit and therefore, the present suit is to be dismissed for pleading a vexatious cause of action.

12. Therefore, before this Court examines the cause of action pleaded in the plaint against the Defendant Nos. 1 to 7, it would be apposite to first examine the proximity of the relationship between the Plaintiff and his family members on one hand with Defendant No. 8, its Director, Mr. Abhishek Kedia, and the shareholders of Defendant No. 8 on the other hand. The list of the relatives of the Plaintiff is annexed as Schedule- 1 to this judgment.

13. M/s Exclusive Stores Pvt. Ltd. was impleaded as Defendant No. 8 *vide* order dated 08.04.2025. The said company filed its written statement dated 07.05.2025 through its Director, Mr. Abhishek Kedia, and has disclosed that it was incorporated in the year 2013, when the Plaintiff's son Mr. Saksham Agrawal, was the promoter director. It is stated that both the Plaintiff's son Mr. Saksham Agrawal, and his wife Mrs. Beena Agrawal, were shareholders of this company. It is stated, however, that subsequently the shares were sold by the said family members to different individuals, including Mr. Abhishek Kedia. It is stated that currently neither the Plaintiff nor his family members have any involvement in this company.

14. Defendant Nos. 6 and 7, on 22.05.2025, filed a Short Note setting out their analysis of the common transactions reflected in the bank accounts of the Plaintiff, his family members and the commercial entities controlled by them *with the* commercial entities controlled by Mr. Abhishek Kedia. The said Short Note is supported by an affidavit dated 19.05.2026.

Defendant No. 8 was granted an opportunity *vide* orders dated 24.04.2026 and 29.05.2026 to file a reply thereto. Defendant No. 8 has

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elected not to file any reply, as recorded in the order dated 24.07.2026.

15. Defendant Nos. 6 and 7 have, inter alia, analysed the financials of Defendant No. 8 and stated that the said Defendant No. 8 had a nominal turnover running into lakhs during the relevant financial year 2018-19, when the payment was made to HDFC Bank. It has been demonstrated that Defendant No. 8 received a sum of Rs. 5,62,32,800/- from M/s Niharika Retails Pvt. Ltd. till 03.08.2019.

M/s Niharika Retails Pvt. Ltd. is stated to be owned and controlled by the Plaintiff's wife Mrs. Beena Agrawal.

It is asserted that the aforesaid funds were utilised by Defendant No. 8 for the purchase of the suit property.

16. In view of the stand taken by Defendant Nos. 1, 6 and 7, this Court had sought clarification from the Plaintiff as regards his relationship with Defendant No. 8 and more specifically, Mr. Abhishek Kedia, the Director of Defendant No. 8.

The Plaintiff subsequently filed an application[9] seeking impleadment of M/s Exclusive Stores Pvt. Ltd. as a proper party and admitted that his family members have a commercial relationship with Defendant No. 8. The Plaintiff also admitted that Defendant No. 8 was promoted by his son and wife; however, he stated that currently his family members have no role in the said entity. The Plaintiff has denied that the purchase of the suit property by Defendant No. 8 through Mr. Abhishek Kedia was at his instance.

17. However, the written statement of Defendant No. 8 *also* discloses

[9] Paragraph No. 8 and 9 of I.A. 9236/2025 allowed on 08.04.2025





that the Plaintiff and his family members[10] have had an established commercial relationship with Mr. Abhishek Kedia and the commercial entities controlled by him. The parties have, inter se, advanced and received monies, and financial transactions between them remain outstanding.

18. The commercial entities involved include M/s Niharika Retails Pvt. Ltd., M/s Niharika Holdings Pvt. Ltd., M/s Flagship Store Pvt. Ltd. and M/s Exclusive Stores [a proprietorship concern of Mr. Saksham Agrawal].

The summary of the details of the shareholders and directors of these commercial entities evidencing the connection between Plaintiff and Mr. Abhishek Kedia, as per the written statement of Defendant No. 8 dated 07.05.2025 and Short Note of Defendant Nos. 6 and 7, is annexed as Schedule- 2 to this judgment.

19. The Plaintiff has filed its replication to the written statement filed by Defendant No. 8, and has admitted the existence of a commercial relationship between these parties. He also admitted[11] that the Plaintiff and his family members raise finances from Defendant No. 8 and commercial entities controlled by Mr. Abhishek Kedia. It is stated, however, that the Plaintiff had no information/knowledge about the 2019 ATS executed between Defendant No. 1 and Defendant No. 8 and characterised the same as an individual transaction between Defendant Nos. 1 and 8.

20. The Plaintiff also amended the plaint in the year 2025 to incorporate, inter alia, paragraph nos. 34(d), (e) and (h). The Plaintiff, in amended paragraphs 34(d) and (e), admitted that Defendant No. 8 was initially promoted by his son Mr. Saksham Agrawal and that it has an existing

[10] Mr. Saksham Agrawal- son, Mrs. Beena Agrawal- wife, Mr. Anil Kumar Agrawal- HUF
[11] At paragraph no. 11 of its written statement dated 07.05.2025

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commercial relationship with the said Defendant No. 8 and other commercial entities controlled and managed by Mr. Abhishek Kedia. The Plaintiff, however, denied any control over Defendant No. 8. At amended paragraph no. 34(h), the Plaintiff has sought to reserve his right to seek cancellation of the sale deed executed by Defendant No. 1 in favour of Defendant No. 8. No such relief was, however, sought in the plaint, either at the time of amendment or thereafter, and no relief for cancellation of the sale deed dated 07.01.2021 has been claimed till date.

21. The financial transactions disclosed in the written statement of Defendant No. 8, however, demonstrate a continuing financial nexus between the Plaintiff, his family members, Defendant No. 8 and Mr. Abhishek Kedia. The transactions relied upon by Defendant No. 8 disclose inter-se movement of funds between these parties and the commercial entities controlled by them. A summary of these transactions discerned from the written statement of Defendant No. 8, which is not disputed by the Plaintiff in the replication, is as under: -

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Inter se transactions of Mr. Abhishek Kedia [director of Defendant No. 8] and Defendant No. 8 with the Plaintiff and his family members that are pending

Sr. No.	Financial Year/ F. Y. [including the month]	Payment made by	Payment made to	Amount	Status
1.	2015-2016 [December 2015]	Mr. Abhishek Kedia	Mr. Saksham Agrawal	Rs. 20,00,000	Not Paid
2.	2016-2017 [January and February 2017]	Mr. Abhishek Kedia	Mr. Saksham Agrawal	Rs. 23,50,000	Not Paid
3.	2017-2018 [October 2017 and March 2018]	Mr. Abhishek Kedia	Mr. Anil Kumar Agrawal HUF	Rs. 9,75,000	Not Paid
4.	2018-2019 [March 2019]	Mr. Abhishek Kedia	Mr. Anil Kumar Agrawal HUF	Rs. 22,75,000	Not Paid
5.	2019-2020 [June 19 and March 2020]	Mr. Abhishek Kedia	Mr. Anil Kumar HUF	Rs. 23,95,000	Not Paid
6.	2019-2020 [January 2020]	Mr. Abhishek Kedia	Mrs. Beena Agrawal	Rs. 36,00,000	Not Paid
7.	2019-2020	M/s Niharika Retails Pvt. Ltd.	M/s Exclusive Stores Pvt. Ltd	Rs. 5,24,31,000 [Increased by Rs.31,52,000 in F.Y 2020-2021] Total: Rs. 5,55,83,000 as on 31.03.2021	As on 31.03.2025, an amount of Rs. 2,83,58,000 is still due.
8.	2022-2023	M/s Exclusive Stores Pvt. Ltd.	M/s Flagship Store Pvt. Ltd. [Director Mr. Saksham Agrawal & Mrs. Beena Agrawal]	Rs. 1,89,00,000 [as unsecured loan @6% p.a.]	Not Paid

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Inter se transactions of Mr. Abhishek Kedia [director of Defendant No. 8] and Defendant No. 8 with the Plaintiff and his family members that have been repaid

Sr. No.	Financial Year/ F. Y. [including the month]	Payment made by	Payment made to	Amount	Status
1.	2014-2015 [December 2014 and March 2015]	M/s Exclusive Stores Pvt. Ltd.	Mr. Saksham Agrawal	Rs. 15,00,000	Repaid in February 2017
2.	2015-2016 [May 2015]	Mr. Abhishek Kedia	Mr. Anil Kumar Agrawal	Rs. 15,00,000	Repaid in F.Y. 2015-2016
3.	2016-2017	M/s Exclusive Stores Pvt. Ltd.	M/s Niharika Holding Pvt. Ltd.	Rs. 24,50,000 [as unsecured loan at interest @ 6% p.a.]	Repaid in December 2021.
4.	2018-2019 [February 2019]	M/s Exclusive Stores Pvt. Ltd.	Mrs. Beena Agrawal	Rs. 2,40,80,000 [advance of Trade Payables]	Repaid in F.Y. 2019-2020 [between November 2019 and March 2020]
5.	2018-2019	M/s Niharika Retails Pvt. Ltd	M/s Exclusive Stores Pvt. Ltd.	Rs. 1,67,47,000	Repaid in F.Y. 2019-2020 [November 2019 to March 2020]
6.	2018-2019 [July 2018]	M/s Exclusive Stores Pvt. Ltd.	M/s Exclusive [Proprietorship of Mr. Saksham Agrawal]	Rs. 4,90,000	Repaid in F.Y. 2018-2019 [February 2019]
7.	2019-2020	M/s Exclusive Stores Pvt. Ltd.	M/s Exclusive [Proprietorship of Mr. Saksham Agrawal]	Rs. 1,55,60,000	Repaid in F.Y. 2019-2020
8.	2021-2022	Mr. Abhishek Kedia	Mr. Anil Kumar Agrawal	Rs. 59,50,000	Repaid in F.Y. 2021-2022

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22. The aforesaid transactions assume significance when considered alongside the admissions made by the Plaintiff himself regarding his commercial relationship with Defendant No. 8 and Mr. Abhishek Kedia. The intermingling of funds between the Plaintiff, his family members, Defendant No. 8 and entities controlled by Mr. Abhishek Kedia lends support to the stand of Defendant Nos. 1, 6 and 7 that these parties, i.e. Plaintiff and Defendant No. 8, were not strangers to each other, but had an established and continuing commercial and financial relationship.

23. Defendant No. 8 and Mr. Abhishek Kedia admittedly carry on business at Patna, as does the Plaintiff, who operates a Tanishq showroom there. In this background, the fact that Defendant No. 8, who has no apparent connection with Delhi, acquired the very same property that the Plaintiff sought to purchase raises questions.

This assumes further significance in light of the commercial and financial transactions between the Plaintiff's family, family-controlled entities and Defendant No. 8, particularly during 2019, when the mortgage with HDFC Bank was redeemed, and the suit property was purchased under the 2019 ATS.

The fact that Defendant No. 8 also runs a Tanishq showroom at the suit property, like the Plaintiff in Patna, is another circumstance that, in this Court's considered opinion, does not appear to be a mere coincidence.

24. The timing of such transactions lends substantial support to Defendant No. 1's assertion that the sale of the suit property in favour of Defendant No. 8 was not an independent transaction between Defendant Nos. 1 and 8, but was undertaken on the instructions of the Plaintiff. The submission of the Applicants/Defendants that the Plaintiff and his family

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members, Defendant No. 8 and Mr. Abhishek Kedia, are related parties is therefore, ex-facie plausible.

25. In this background, the case setup in the plaint is ex-facie vexatious. The suit should be rejected on this ground alone [Re: **Aniruddha Dutta v. Bhawani Shankar Basu**[12] and **Santosh Kumar Jain v. Bahadur Singh Jain**[13]].

II. THE APPLICANTS/DEFENDANTS ARE NEITHER NECESSARY NOR PROPER PARTIES

26. The discussion under this heading is independent of the finding of vexatious plaint hereinabove.

27. Before this Court examines the maintainability of the reliefs sought by the Applicants/Defendants in these applications for deletion from the array of parties, it would be appropriate to first examine the cause of action pleaded in the plaint *qua* the Applicants/Defendants and the stand taken by Defendant Nos. 1 and 8 in their written statement.

28. The Plaintiff, who is a resident of Patna, Bihar, was keen to purchase a commercial property in Delhi. Defendant No. 1 was the absolute owner of the suit property having purchased it *vide* sale deed dated 13.12.2011.

29. The copy of the sale deed dated 13.12.2011 has been filed on record by the Plaintiff. The said deed shows that the suit property was initially sold by the Union of India to M/s. Motor and General Finance Ltd. *vide* Certificate of Sale dated 05.09.1986. M/s. Motor and General Finance Ltd. executed a registered General Power of Attorney [‘GPA’] in favour of Mr.

[12] 2012 (127) DRJ 46(DB) [Paragraph No. 28]
[13] CM(M) 82/2019 dated 18.01.2019

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Chetan Gupta, who sold the suit property *vide* sale deed dated 25.02.2002 to four persons, i.e., Smt. Daya Wati, Smt. Madhu Aggarwal, Smt. Lalita Aggarwal, and Smt. Rageeni Aggarwal. Thereafter, the said four co-owners sold the property to M/s. M.K. Oversees Pvt. Ltd. *vide* sale deed dated 23.12.2009. Then, the property was sold by M/s. M.K. Oversees Pvt. Ltd. to Defendant No. 1 *vide* sale deed dated 13.12.2011.

29.1. Thus, the chain of title includes four [4] title documents, i.e., Certificate of Sale dated 05.09.1986, sale deed dated 25.02.2002, sale deed dated 23.12.2009 and sale deed dated 13.12.2011.

30. The Plaintiff states that he was provided with *photocopies* of the title documents and, after satisfying himself with respect to the title of Defendant No. 1, he agreed to purchase the suit property for a sum of Rs. 7,00,00,000/-. It is stated that the Plaintiff remitted a sum of Rs. 6,93,00,000/- to Defendant No. 1 through four [4] bank transfers[14] in July, 2018 and withheld Rs. 7,00,000/- towards TDS to be deposited with the Income Tax Department ['IT Department']. It is stated that in this manner the entire sale consideration stood paid to Defendant No. 1 as on 24.07.2018. The proof of deposit of TDS with the IT Department is not available on record. And, there is no submission that the amount of Rs. 7,00,000/- was indeed deposited with the IT Department. It is stated that thereafter, on 01.08.2018, the Plaintiff and Defendant No. 1 executed a written agreement to sell, i.e., the 2018 ATS. It is stated that the symbolic possession of the suit property was handed over by Defendant No. 1 *vide* letter dated 01.08.2018, and a letter of attornment of the same date was also issued to the tenant with a direction to remit future payment of rent to the

[14] Details of transfer set out in paragraph no. 13 of the amended plaint

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Plaintiff. It is, however, a matter of record that rent was never remitted by the tenant to the Plaintiff.

31. The Plaintiff states that Defendant No. 1 failed to execute the sale deed. It is stated that the Plaintiff learnt, for the first time, that the suit property had been mortgaged with the HDFC Bank in March, 2019 and realised he had been defrauded, as this fact was withheld from him. It is stated that the Plaintiff elected to void the transaction, made oral requests to the Defendants to refund the amount, and finally issued a legal notice dated 20.07.2021 seeking refund of the amount of Rs. 6,93,00,000/- with interest. It is stated that the Plaintiff also filed a criminal complaint dated 28.10.2021 before the EOW, New Delhi, alleging fraud by the Defendants due to the non-disclosure of the mortgage.

32. The Plaintiff impleaded Defendant Nos. 6, 7 and Mr. Abhinandan Kumar Jain on the plea that they were property brokers, who introduced the Plaintiff to Defendant No. 1 and misrepresented that the suit property was free from encumbrances. The Plaintiff impleaded Defendant Nos. 2 to 5 on the plea that they were the relatives of Defendant No. 1 and had similarly misrepresented to the Plaintiff that the property was free from encumbrances, and these parties are interested parties in the said property. The Plaintiff seeks refund of the amount of Rs. 6,93,00,000/- with interest from all the Defendants jointly and severally.

The Plaintiff, therefore, expressly elected, on the ground of fraud and misrepresentation under Section 19 of the Indian Contract Act, 1872 [‘Contract Act’], to void the transaction for the purchase of the suit property under the 2018 ATS and sought a refund of the consideration amount of Rs. 6,93,00,000/- from Defendant No. 1 under Section 64 of the Contract Act,





as pleaded.

The legal premise on which the Plaintiff seeks refund of the said amount from Defendant Nos. 2 to 7 and Mr. Abhinandan Kumar Jain is not set out in the plaint. The plaint contains a general plea that the said Defendants have made themselves jointly and severally liable for the claim of refund as they, along with Defendant No. 1, made false verbal representations that the suit property is free from encumbrance.

33. As noted above, Defendant No. 1 has, in response, contended that she has sold the property to Defendant No. 8 on the instructions of the Plaintiff herein and therefore, the Plaintiff does not have a cause of action for maintaining this suit for seeking refund of the payments made under the 2018 ATS.

34. Upon reading the written statements of Defendant No. 1 and the documents filed[15] by Defendant No. 8, the following facts are discernible:

i. The Plaintiff was, since the very beginning, aware that the suit property was mortgaged with HDFC Bank.

ii. The Plaintiff negotiated with the HDFC Bank officials for the release of the said property from mortgage.

iii. The Plaintiff informed Defendant No. 1 that the payment to HDFC Bank for redemption of mortgage was proposed through a bank account held by a distinct juristic entity. In this background, it was the Plaintiff who introduced Defendant No. 8 through its Director, Mr. Abhishek Kedia, to Defendant No. 1 for the purpose of making payment to HDFC Bank.

[15] in CS (OS) No. 644/2019

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iv. HDFC Bank took possession of the suit property on 01.06.2019 in pursuance of the SARFAESI proceedings initiated against the borrower[16] and Defendant No. 1 being the mortgagor.

v. HDFC Bank agreed to release the suit property from mortgage upon receipt of payment of Rs. 6,00,00,000/-.

vi. Defendant No. 1 executed an ATS on 24.07.2019 with Defendant No. 8 through Mr. Abhishek Kedia. The said agreement was for a sum of Rs. 6,01,01,000/-, out of which Rs. 1,01,000/- was to be received by Defendant No. 1 and Rs. 6,00,00,000/- was to be paid directly to HDFC Bank.

vii. The agreement to sell dated 24.07.2019 executed with Defendant No. 8 is in continuation of the 2018 ATS and forms part of one single transaction.

viii. Defendant No. 8 on 17.08.2019 directly made a payment of Rs. 5,94,00,000/- to HDFC Bank for release of mortgage against the suit property. Defendant No. 8 addressed a letter to HDFC Bank seeking a 'No Dues Certificate'.

ix. Thereafter, on 02.09.2019, HDFC Bank released the original title deeds of the suit property to Mr. Abhishek Kedia in the presence of Defendant No. 1. Defendant No. 8 acknowledged receiving possession of the suit property from HDFC Bank and Defendant No. 1 on 02.09.2019. HDFC Bank also issued a letter recording release of the charge on the suit property *vide* letter dated

[16] M/s M.K. Overseas Pvt. Ltd.

07.09.2019.

x. A sale deed dated 03.09.2019 was executed between Defendant No. 8 through Mr. Abhishek Kedia and Defendant No. 1 through her GPA; however, the same was not presented for registration.

xi. Defendant No. 8 through its Director, Mr. Abhishek Kedia, sent a legal notice to Defendant No. 1 to perform the 2019 ATS. Defendant No. 8, thereafter, filed a separate suit CS (OS) 644/2019 seeking specific performance. Summons were issued to Defendant No. 1 and her attorney, Mr. Gulfam, who had executed the 2019 ATS. Defendant No. 1 entered appearance in the said suit through her counsel. Without filing any written statement, Defendant No. 1, through her attorney, Mr. Gulfam, entered into a deed of settlement with Defendant No. 8 on 26.02.2020. A sale deed was executed on 07.01.2021 by Defendant No. 1 herself in favour of Defendant No. 8. In this background, CS (OS) 644/2019 was withdrawn by Defendant No. 8 on 12.02.2021 after recording that the disputes had been amicably resolved.

35. In contrast, there are gaping holes in the case set up by the Plaintiff in the plaint.

36. The facts pleaded in the plaint show that after execution of the 2018 ATS, the only written evidence relied upon by the Plaintiff as regards its correspondence with Defendant No. 1 [and other Appellants/Defendants] is the legal notice dated 20.07.2021 and the criminal complaint dated 28.10.2021. There is no written evidence for the intervening period of three [3] years. This gap is significant in view of the case pleaded by Defendant

No. 1 and Defendant No. 8. In this regard, it may be observed that there is a deafening silence for the intervening period of 2019-2021 in the case set up by the Plaintiff. The Plaintiff would have this Court believe that, despite having paid the entire sale consideration of Rs. 6,93,00,000/-, and on receiving no rent, and learning about HDFC Bank, he made no written protest or communication calling upon Defendant No. 1 to perform its obligations under the 2018 ATS during 2018, 2019 or 2020. In this Court's considered opinion, the case set up by the Plaintiff fails to inspire any confidence.

37. Significantly, in the intervening period 2019-2021, when there is no written evidence of any follow-up by the Plaintiff with Defendant No. 1, Defendant No. 8 has relied upon written evidence which shows active collaboration between Defendant No. 1, HDFC Bank and Defendant No. 8 for having the suit property released from mortgage, filing of a civil suit before this Court and execution of the sale deed dated 07.01.2021.

38. Also, considering that the Plaintiff, his son and his wife have a continuing commercial relationship with Mr. Abhishek Kedia, the Director of Defendant No. 8 since the year 2015 and till date, lends credence to the stand taken by Defendant No. 1 in her written statement. Defendant No. 8, in its written statement, discloses the extent of the financial transactions between the Plaintiff, his family members, commercial entities controlled by him, Mr. Abhishek Kedia and commercial entities controlled by Mr. Abhishek Kedia. The number of financial transactions between the two is numerous and substantial, running into crores of rupees, as has already been established hereinabove.

39. Thus, if the timeline, from 2019-2021, of the transaction between





Defendant No. 1 and Defendant No. 8 is placed between Plaintiff's 2018 ATS to its first written evidence of legal notice dated 20.07.2021, it lends further credence to the stand taken by Defendant No. 1 that her actions in 2019 of entering into 2019 ATS and execution of the sale deed dated 07.01.2021 with Defendant No. 8 was under the instructions of the Plaintiff and in furtherance of the 2018 ATS appears logical and plausible.

40. Furthermore, it is significant to note that the Plaintiff in the original plaint *failed to plead* that the suit property has been sold by Defendant No. 1 to Defendant No. 8. The plaint is conspicuously silent on the aspect of the sale. The plaint only seeks refund and *fails* to mention that the property has been sold. Even to a pointed query from the Court on the first date of hearing in this suit, i.e., 29.03.2022, when the Court enquired as to why a relief for specific performance had not been sought, the Plaintiff stated that since the suit property is under encumbrance, the only remedy available to the Plaintiff is to seek a money decree for refund of the sale consideration paid along with interest. The relevant paragraph no. 5 of the said order reads as under:

> "5. It is in these circumstances, counsel submits, that the present suit has come to be filed on 23.03.2022. It is submitted that aside from the fact that during the pandemic, under orders of the Hon'ble Supreme Court, limitation for filing of suits stood in abeyance, in any case, the cause of action in the present case arose on 25.03.2019 and the suit is therefore within limitation. It is argued that considering that the subject premises is under encumbrance, the plaintiff was left only with the remedy of seeking a money decree for refund of the sale consideration paid alongwith interest."
>
> [Emphasis Supplied]

41. In the considered opinion of this Court, the said stand of the Plaintiff before the Court was misleading on 29.03.2022. Defendant No. 1 has

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already stated that the suit property was sold to Defendant No. 8 *vide* sale deed dated 07.01.2021 at the instance of the Plaintiff. Notwithstanding the submission of Defendant No. 1, even a perusal of the legal notice dated 20.07.2021 [at paragraph no. 11[17]] shows that the Plaintiff acknowledges that he was aware since the year 2021 about the sale in favour of Defendant No. 8.

42. The Plaintiff's action of not immediately approaching the Court in the year 2021 when it allegedly learnt about the sale of the suit property in favour of Defendant No. 8, despite having paid the entire consideration of Rs. 6,93,00,000/- under the 2018 ATS to Defendant No. 1, does not stand to reason and is contrary to the ordinary course which an aggrieved party would have adopted. The Plaintiff's action of leisurely approaching the Court in March, 2022, for only seeking refund and not seeking cancellation of the sale deed dated 07.01.2021 in this suit also evidences an act contrary to the ordinary course. The Plaintiff's act of not seeking cancellation of the sale deed lends credence to the submission of Defendant No. 1 that the sale deed dated 07.01.2021 was executed under the instructions of the Plaintiff. The Plaintiff's failure to disclose the sale deed to the Court at the hearing dated 29.03.2022 despite a pointed query also evidences mala fide.

43. The Plaintiff has amended the suit and filed an amended plaint on 07.04.2025, wherein, at newly inserted paragraph 34(h), it is pleaded that the Plaintiff reserves its right to seek cancellation of the sale deed dated 07.01.2021. The said pleading is hogwash, as the said prayer was available to the Plaintiff on the date when the initial plaint was filed, and the Plaintiff

[17] 11. That due to the ongoing pandemic, my client was not able to keep a track of the situation. Later, after seeing the board of some firm on the above said property, my client came to know that the property has been transferred to a third party.

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consciously elected not to pray for the said relief and even while amending the plaint, the Plaintiff has failed to take this stand.

44. The omission of the Plaintiff to plead its knowledge about the sale deed dated 07.01.2021[18] standing in favour of Defendant No. 8, seek its cancellation and the omission to plead his commercial relationship with Defendant No. 8 as well as Mr. Abhishek Kedia all give substance to the submission of Defendant No. 1 that the sale deed dated 07.01.2021 was executed under the instructions of the Plaintiff.

45. Upon perusal of the documents filed with the plaint and the documents relied upon by Defendant No. 8, it is apparent that the 2019 ATS set up by Defendant No. 8 is a continuation of the 2018 ATS set up by the Plaintiff and forms part of a single transaction of sale.

46. The stand taken by the Plaintiff that it was not aware of the mortgage of the suit property with HDFC Bank when it entered into the 2018 ATS with Defendant No. 1 and made payment of the sale consideration is prima facie implausible. As noted at paragraph no. 29 of this judgment, the chain of title of the suit property in favour of Defendant No. 1 comprised of four [4] title deeds, which the Plaintiff admits were lying deposited with HDFC Bank. It is the legal obligation of a proposed buyer to exercise due diligence and satisfy itself with respect to the clear title of the seller, which necessarily includes inspection of the original title documents through which the seller claims title, and verification of the existence of the registered title documents from the office of the concerned Sub-Registrar and unregistered documents such as allotment letter, etc. from the

[18] Executed by Defendant No. 1 in favour of Defendant No. 8

concerned Government department. In fact, upon completion of the sale, the custody of the original title documents in the custody of the seller is also statutorily required to be taken over by the buyer as per Section 55(3) of the TP Act. The mandate to the buyer to carry out the due diligence *qua* title is also statutorily embodied under Section 3 of the TP Act under the phrase 'a person is said to have notice'. This principle also finds statutory recognition in the statutory Exception to Section 19 of the Contract Act, which provides that a contract cannot be avoided by a party on the allegation of misrepresentation if such a party had the means of discovering the truth with ordinary diligence. This principle of due diligence in a contract is also known as the doctrine of 'Caveat Emptor'. This rule finds its basis in the Latin maxim '*Caveat emptor qui ignorare non debuit quod jus alienum emit*' which means 'let a purchaser beware: who ought not to be ignorant that he is purchasing the rights of another'. This rule was deliberated by the Supreme Court in **Commissioner of Customs v. Aafloat Textiles India Private Limited**[19], where, at paragraph nos. 15 and 16, it was held as under:

> "15. "Caveat emptor is the ordinary rule in contract. A vendor is under no duty to communicate the existence even of latent defects in his wares unless by act or implication he represents such defects not to exist." (See William R. Anson, *Principles of the Law of Contract* 245, Arthur L. Corbin, ed., 3d Am. Edn. 1919.) **Applying the maxim, it was held that it is the bounden duty of the purchaser to make all such necessary enquiries and to ascertain all the facts relating to the property to be purchased prior to committing in any manner.**
>
> 16.***Caveat emptor qui ignorare non debuit quod jus alienum emit.* A maxim meaning "let a purchaser beware; who ought not to be ignorant that he is purchasing the rights of another".** (Hob. 99; Broom; Co., Litl : 102 a : 3 Taunt. 439.) **As the maxim applies, with certain specific**

[19] (2009) 11 SCC 18

> **restrictions, not only to the quality of, but also to the title to, land which is sold, the purchaser is generally bound to view the land and to enquire after and inspect the title deeds; at his peril if he does not**."

[Emphasis Supplied]

47. The aforesaid doctrine has also been reiterated by the Supreme Court in **Rajendra Kumar Barjatya v. U.P. Avas Evam Vikas Parishad**[20] wherein, while considering the scope of the doctrine of Caveat Emptor read with Section 55(1)(a) of the TP Act, the Court emphasised the primary responsibility of the buyer to ascertain the title of the seller and the defects in the property. The relevant paragraph reads as follows: -

> "16.2 As regards the rights of the appellants, independent from that of Respondent No. 5, are concerned, we are unable to believe that the appellants did not even verify the original allotment order before purchase of the property to know the permissible use of the property and the factum of existence or otherwise of any approval in respect of the commercial building purchased by them. **In this regard, the doctrine of Caveat Emptor would require the buyer to perform all acts within his capacity to ascertain the title of the seller and the defects in the property. Further, Sub-section (1) (a) of Section 55 of the Transfer of Property Act makes it clear when the buyer with ordinary care is not able to ascertain the material defect in the property or in the seller's title, it becomes the duty of the seller to disclose the same though it is the primary responsibility is on the buyer to ascertain the defects in the property and the title**……"

[Emphasis Supplied]

48. The Plaintiff, on his own admission, is a man of means who regularly sells and buys immovable property and is therefore well aware of the due diligence required to be followed by a buyer in such transactions. In the 2018 ATS, at clause 18,[21] it is recorded that the Plaintiff has received all the

[20] 2024 SCC OnLine SC 3767

[21] 18. That the First Party has delivered all the documents pertaining to the said Shop to the Second Party, on signing of this Agreement of Sale.





documents pertaining to the suit property from Defendant No. 1. Upon reading clause 18 of the 2018 ATS with the statutory obligation of due diligence resting upon the buyer, it is evident to this Court that the Plaintiff entered into the 2018 ATS with the clear knowledge that the original title deeds of the suit property were unavailable with Defendant No. 1 and the Plaintiff consciously elected to enter into this transaction. This lends credence to the submissions of Defendant No. 1 that the Plaintiff was aware of the title deeds being deposited with HDFC Bank. The plea set up by the Plaintiff in the plaint that it was defrauded by Defendant No. 1 and not informed that the title deeds were deposited with HDFC Bank for mortgage is not borne out from the record.

49. In view of the aforesaid discussion, this Court is of the considered view that the Plaintiff has approached this Court with unclean hands and has sought to sustain the present proceedings on the basis of a vexatious plaint.

50. The Plaintiff has argued that the cause for impleading the applicants, Defendant Nos. 2 to 7, is due to the non-disclosure of the mortgage of the suit property with HDFC Bank, which, according to the Plaintiff, constitutes fraud. This Court has already opined that the Plaintiff, by ordinary diligence, would have discovered that the original title documents are unavailable with Defendant No. 1 and therefore, the Exception to Section 19 of the Contract Act is attracted to the facts of this case.

51. The Plaintiff in his rejoinder to the I.A. 1021 of 2023 has further stated that cause of action arose against Defendant Nos. 2, 3 and 5 as they were present during the execution of the ATS 2018 and admittedly Defendant Nos. 2 and 3 have also signed the said ATS 2018 in the capacity

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of witnesses, which makes them responsible and liable for Plaintiff's mental agony and major financial loss. There is a huge difference between executing a particular document and being a witness to the same document. The witnesses to a legal document only verify the authenticity or the fact that the document was signed in their presence. They are not a party to the contract and do not consent to its underlying obligations. Also, the Supreme Court in **Hemkunwar Bai v. Sumersingh & Ors**[22] has held that the witnesses need not necessarily know what is contained in the documents. Therefore, merely being a witness to a legal document does not make the said Defendants liable for any loss, whatsoever, caused to the Plaintiff.

52. The amended plaint further contains, for the *first* time, allegations concerning payments allegedly made in cash by Defendant Nos. 2 and 4 to Defendant Nos. 6 and 7 and Mr. Abhinandan Kumar Jain in connection with the transaction under the 2018 ATS. These allegations were introduced by way of amendment in 2025 and were not contained in the Plaintiff's reply to I.A. No. 11515/2022. The said allegations appear to be an afterthought, are unsupported by any documentary evidence and, even if assumed to be true, do not disclose any cause of action against the Applicants/Defendants, particularly since no money was paid by the Plaintiff to Defendant Nos. 6 and 7.

53. Thus, the averments in the plaint fail to show as to how Defendant Nos. 2 to 7 are proper and necessary parties.

III. <u>THE PLEA OF FRAUD AGAINST DEFENDANT NOS. 1 TO 7 IS NOT MADE OUT</u>

[22] 2019 4 RCR (Civil) 773

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54. The plaint[23] makes bald allegations of fraud against Defendant Nos. 2 to 7. These pleas do not give rise to any cause of action against the said Defendants for two reasons.

55. *First*, the Plaintiff has failed to show the legal obligation of Defendant Nos. 2 to 7 to make representations as regards the status of encumbrances on the suit property. In the absence of any legal duty of Defendant Nos. 2 to 7 in this regard, the Plaintiff could not have relied upon any representations made by the said Defendants as regards the title of the suit property for making his decision. The Plaintiff has admittedly not paid any money to the said Defendants for this transaction and therefore, has no privity of contract with the said Defendants.

56. *Second*, this Court is unable to accept that the cause of action as pleaded in the plaint discloses a case of fraud. Simply describing the acts complained of as fraudulent cannot, by itself, constitute a plea of fraud. Where fraud is alleged, Order VI Rule 4 of the CPC requires the necessary particulars thereof to be specifically pleaded, including the precise acts alleged to constitute the fraud, the manner in which it was committed, and, where necessary, the dates and other relevant particulars. In this regard, it is apposite to refer to the judgment of the Supreme Court in **Bishundeo Narain v. Seogeni Rai**[24] wherein it was held that in cases involving allegations of fraud, the party making such allegations must set forth full and specific particulars thereof, and that general or vague averments are insufficient. The Supreme Court emphasised that particulars such as the nature of the representation, the person who made it, the person to whom it

[23] At paragraph nos. 30, 31, 34, 34(f), 34(g), 34(h) and 39
[24] 1951 SCC 447

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was made, and the time, place and circumstances in which it was made are essential, failing which the Court would be unable to arrive at a proper conclusion. The relevant paragraphs read as under: -

> 22. We turn next to the questions of undue influence and coercion. Now it is to be observed that these have not been separately pleaded. It is true they may overlap in part in some cases but they are separate and separable categories in law and must be separately pleaded. It is also to be observed that no proper particulars have been furnished. Now if there is one rule which is better established than any other, it is that in cases of fraud, undue influence and coercion, the parties pleading it must set forth full particulars and the case can only be decided on the particulars as laid. There can be no departure from them in evidence. General allegations are insufficient even to amount to an averment of fraud of which any court ought to take notice however strong the language in which they are couched may be, and the same applies to undue influence and coercion. See Order 6 Rule 4, Civil Procedure Code.
>
> ……
>
> 25. We will deal with the case of coercion first. It will be seen that the plaintiffs' case regarding that is grounded on the single allegation that their father was threatened with death. When all the verbiage is cleared away, that remains as the only foundation. The rest, and in particular the facts set out in Paras 8 to 12 about the ferocious appearance of Firangi Rai and his allegedly high-handed and criminal activities and his character, are only there to lend colour to the genuineness of the belief said to have been engendered in Ghughuli Rai's mind that the threat of death administered to him was real and imminent. But as regards the threat itself, there is not a single particular. We do not know the nature of the threat. We do not know the date, time and place in which it was administered. We do not know the circumstances. We do not even know who did the threatening. Now, when a court is asked to find that a person was threatened with death, it is necessary to know these particulars, otherwise it is impossible to reach a proper conclusion.
>
> 26. It was argued that it is not necessary for a plaintiff to give particulars and if the other side is not satisfied, there are provisions in the Code which entitle him to ask for them. That is a grave misapprehension"
>
> [Emphasis Supplied]





57. We also find it apposite to refer to the judgment of the Supreme Court in **Ranganayakamma and Another v. K.S. Prakash (Dead) by LRs.**[25] in this regard. In the said judgment, the Supreme Court reiterated that where a party seeks to avoid a transaction, settlement, decree or contract on the ground of fraud, coercion, misrepresentation or undue influence, the particulars thereof must be specifically pleaded and proved in accordance with Order VI Rule 4 of CPC. The Court held that vague and general allegations are insufficient unless the pleadings disclose, inter alia, when the representations were made, who made them, the nature and contents of such representations, and the circumstances in which the alleged fraud or misrepresentation occurred.

58. In the facts of this case, the plaint does not set out such particulars and rests on a general allegation of fraud. Such an allegation cannot be treated as a substantive cause of action merely by use of the expression fraud. This Court, therefore, finds no merit in the Plaintiff's contention that the suit discloses a cause of action against Defendant Nos. 2 to 7, founded on fraud.

59. In view of the findings returned hereinabove, this Court is satisfied that the allegations of fraud are vague and unsubstantiated. The Plaintiff had no privity of contract with Defendant Nos. 2 to 7, and the said Defendants have no legal obligation towards the Plaintiff under the 2018 ATS relied upon by the Plaintiff. This Court is therefore satisfied that Defendant Nos. 2 to 7 are neither necessary nor proper parties.

60. In view of the aforesaid findings, I.A. Nos. 1021/2022, 10197/2022

[25] (2008) 15 SCC 673 [Paragraph Nos. 40, 41, 43 to 45]

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and 11515/2022 are hereby allowed. Defendant Nos. 2 to 7 are directed to be deleted from the array of parties.

61. The Plaintiff is directed to pay costs of Rs. 50,000/- to each of the Defendant Nos. 2 to 7.

O.A. 77/2024 and I.A. 9121/2024

62. O.A. 77/2024 is a chamber appeal filed by the Plaintiff challenging the order dated 14.02.2024 passed by the learned Joint Registrar deleting Mr. Abhinandan Kumar Jain, who was the erstwhile Defendant No. 9.

63. I.A. 9121/2024 has been filed by the Plaintiff seeking condonation of delay of 44 days in filing the captioned chamber appeal.

64. In the original plaint, it is averred that Defendant Nos. 6, 7 and Mr. Abhinandan Kumar Jain have been identically placed in the alleged role played by them in the 2018 ATS transaction between Plaintiff and Defendant No. 1.

65. The reasons of this Court which form the basis of allowing deletion of Defendant Nos. 2 to 7 hereinabove, equally apply to the deletion of Defendant No. 8.

66. For the reasons recorded in the order above, this Court finds no merit in this appeal and the same is dismissed. Consequently, I.A. 9121/2024 stands disposed of.

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67. The tenor of the terms and conditions of the 2018 ATS executed inter se the Plaintiff and Defendant No. 1 and titled as 'Agreement of Sale' gives a distinct impression that the said agreement was intended to record divestiture of all rights, title and interest of Defendant No. 1 in favour of the Plaintiff. Illustratively, Clauses 4, 11 and 13. The Plaintiff has relied upon letter(s) dated 01.08.2018 to allege handover of possession and direction to the tenant to attorn to the Plaintiff. This unregistered agreement, read with the pleading of the Plaintiff that, *vide* letter dated 01.08.2018, the symbolic possession of the property was handed over to him, shows that the Plaintiff intended this chain of documents to effect transfer of the property in its favour as contemplated in Section 53A of the TP Act. Such an agreement is therefore required to be registered as per Section 17(1A) of the Registration Act, 1908, and it is required to be stamped as per Article 23A of the Schedule-I to the Stamp Act, 1899 ['Stamp Act'] as applicable to the Union Territories.

68. In view of the fact that the said agreement is unstamped, the same is liable to be impounded as per Section 35 of the Stamp Act.

69. The Plaintiff is directed to address submissions on this issue on the next date of hearing.

70. Similarly, in this order, this Court has concluded that the plaint is vexatious. This Court has opined that ex-facie the 2018 ATS and the 2019 ATS are in continuation with each other. The sale deed dated 07.01.2021 has been executed by Defendant No. 1 in favour of Defendant No. 8 through Mr. Abhishek Kedia, who is a related party vis-à-vis the Plaintiff.





In this regard as well, the Plaintiff shall address arguments on the next date of hearing as to why this suit should not be dismissed. Defendant No. 1 has already filed I.A. No. 17921/2022 seeking rejection of the plaint.

71. The Plaintiff is directed to bring on record the amended memo of parties within two [2] weeks.

72. Accordingly, list before the Roster Bench on 20.11.2026 for arguments on the aforesaid issues.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 16, 2026/hp/aa/IB

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SCHEDULE- 1

Family members of the Plaintiff involved in the business

Name	Relation
Mrs. Beena Agrawal	Wife of the Plaintiff; Director of M/s Flagship Store
Mr. Saksham Agrawal	Son of the Plaintiff, Proprietor of M/s Exclusive Stores. Director of M/s Flagship Store and Exclusive Brands Pvt. Ltd.
Mr. Sakshi Agrawal	Daughter of the Plaintiff
Mr. Ramavatar Agrawal	Father of the Plaintiff
Mr. Sanjay Kumar Agrawal	Brother of the Plaintiff
Mrs. Jayati Agrawal	Sister-in-law of the Plaintiff
Mr. Umesh Tekriwal	Director of Exclusive Brands Pvt. Ltd.
Mrs. Sweta Tekriwal	Wife of Mr. Umesh Tekriwal
Mr. Dilip Kumar Tibrewal	Associated with the Plaintiff and works at the Plaintiff's Tanishq showroom at Muzaffarpur. His two sons are working at the Plaintiff's Tanishq Showroom at Patna.
Mr. Shashank Kejriwal	Plaintiff's wife's nephew
Ms. Sugandha Mantanhelia	Acquaintance of Mrs. Beena Agrawal

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SCHEDULE- 2

Involvement of Mr. Abhishek Kedia, Director of Defendant No. 8, with the Plaintiff and his family members [as per the written statement of Defendant No. 8 dated 07.05.2025 and Short Note of Defendant Nos. 6 and 7]

Sr. No.	Company	Timeline of Mr. Abhishek Kedia
1.	**M/S Exclusive Stores Pvt. Ltd.** Regd. Address – New Dak Bungalow Road (near Aparna Appt.) Patna – 800001, Bihar.	➢ On 31.03.2015, Mr. Saksham Agrawal resigned from the post of Director, and Abhishek Kedia was appointed as the Director. ➢ On 31.03.2015, shares owned by Mr. Saksham Agrawal [son of the Plaintiff] was transferred in the name of Mr. Abhishek Kedia ➢ On 01.04.2015, shares owned by Mrs. Beena Agrawal [wife of the Plaintiff] was transferred in the name of Ms. Sughandha Mantanhelia. ➢ On 30.03.2019, shares of Ms. Sughandha Mantanhelia was transferred in the name of Mr. Abhishek Kedia.
	Incorporation – 23.10.2013	
	Directors at the time of Incorporation – Mr. Shashank Kejriwal Mr. Saksham Agrawal	➢ **Current Shareholders**: i. Mrs. Sweta Tekriwal – 14.04% ii. Mr. Abhishek Kedia – 66.40% iii. Mr. Dilip Kumar Tibrewal – 19.56%
	Original Shareholders: Mr. Shashank Kejriwal – 14.04% Mr. Saksham Agrawal – 39.82% Mrs. Beena Agrawal – 26.58% Mr. Dilip Kumar Tibrewal – 19.56%	➢ **Current Directors:** i. Mr. Abhishek Kedia ii. Ms. Sweta Tekriwal
2.	**M/S Niharika Retails Pvt. Ltd.** Reg. Address – J-21, B.K. Dutt Colony Jorbagh, New Delhi, Delhi, India, 110003**.** [Engaged in the business of jewellery and operates a showroom under the Tanishq brand in	➢ On 18.03.2020, Mr. Abhishek Kedia was appointed as an additional Director. ➢ On 20.03.2020, Mrs. Beena Agrawal resigned as a director.

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	Muzaffarpur, Bihar]	
	Incorporation: 28.12.2010	➢ **Current Shareholding pattern**: i. Mrs. Beena Agrawal – 23.82% ii. Mr. Ramavtar Agrawal HUF – 10.46% iii. Mr. Abhishek Kedia – 13.11% [acquired on 20.03.2020]
	Directors on the date of Incorporation: Ms. Jayati Agrawal Mrs. Beena Agrawal	➢ **Current Directors:** i. Mr. Abhishek Kedia ii. Mrs. Jayati Agrawal
3.	**M/S Niharika Holding Pvt. Ltd.** Regd. Address: Off. At New Dak Bungalow Road, Patna - 800001	➢ On 31.03.2006, the directors were the Plaintiff and Mr. Ramavtar Agrawal. ➢ On 11.09.2010, Mr. Ramavatar Agrawal resigned from the post, and Ms. Sakshi Agrawal was appointed as director. ➢ On 31.03.2015, Ms. Sakshi Agrawal resigned from the post of director, and Mr. Saksham Agrawal was appointed as a director in the company. ➢ On 22.03.2021, Mr. Abhishek Kedia acquired shares of about 2.04%.
	Incorporation: 01.12.1993	➢ **Current Shareholding pattern:** i. Mr. Anil Kumar Agrawal – 47.98% ii. Mr. Saksham Agrawal – 11.43% iii. Mr. Abhishek Kedia – 2.04%
	Directors at the time of incorporation: Mrs. Beena Agrawal	➢ **Current Directors:** i. Mr. Anil Kumar Agrawal ii. Ms. Sakshi Agrawal



	Mr. Sanjay Kumar Agrawal	