TEN COMMERCIAL LAW PRINCIPLES, ONE SHOULD KNOW

Shivam Goel*

Principle I: "Agreement to Sell: Essential Ingredients"

In the matter of: *Braham Singh* v. *Sumitra & Ors*[1], it was observed that: "…*Some of the essential ingredients of an Agreement to Sell an immovable property are:* ***(i)*** *identity of the 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 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 be paid[2].

In the matter of *Aggarwal Hotels (P) Ltd.* v. *Focus Properties (P) Ltd.*[3], it was observed that, 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, that is, the seller and the purchaser, **(iv)** certainty as to 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, and, **(vi)** time within which the conveyance of the property was to be effected. In the event of any of the above constituents missing, it has to be held that there is no valid contract at all.

In the matter of: *T. Muralidhar* v. *PVR Murthy*[4], it was held that, "…*It is well settled that specific performance would not be granted if the agreement itself suffers from deficiency which makes it invalid or unenforceable… Certainly the court cannot presume terms of agreement and direct enforcement thereof…*" Thus, if an

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* Advocate, High Court of Delhi

[1] 2011 (125) DRJ 570

[2] *Mirahul Enterprises* v. *Vijaya Srivastava*, AIR 2003 Del 15

[3] 63 (1996) DLT 52

[4] RFA (OS) No.115/2014, High Court of Delhi, Coram: Gita Mittal & Sunil Gaur, JJ., Date of Decision: 07.11.2014

agreement to sell is bereft of essential ingredients then specific performance qua it cannot lie.

Principle II: "Lifting the Corporate Veil"

In the matter of: *DDA* v. *Skipper Construction Co. (P) Ltd.*[5], it was held that:

a. The concept of corporate entity was evolved to encourage and promote trade and commerce but not to commit illegalities or to defraud people. Where, therefore, the corporate character is employed for the purpose of committing illegalities and/or for defrauding creditors/suppliers, the court can ignore the corporate character and look at the reality behind the corporate veil so as to enable it to pass appropriate orders to do justice between the parties concerned.

b. The concept of 'piercing the corporate veil' in the United States is much more developed than in the United Kingdom. In the United States, lifting up of the corporate veil takes place when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime. If a company is incorporated to commit illegalities such as for evasion of taxes and/or defrauding creditors, the court can lift the corporate veil and regard the corporation as an association of persons.

c. When the conception of corporate entity is employed to defraud creditors, to evade an existing obligation, to circumvent a statute, to achieve or perpetuate monopoly, or to protect knavery or crime, the court can draw aside the web of entity to regard the body corporate (company) as an association of live, up-and-doing men and women shareholders, so that it can do justice between real persons.

d. The court can lift the corporate veil where the device of incorporation is used for some illegal or improper purpose, for example, if vendor of a land seeks to avoid the action for specific performance by transferring the land in breach of contract to a company which the vendor had formed only for that purpose, the court can treat the company as mere 'sham' and can further order for specific performance against both the vendor and the company.

e. It is impossible to evolve a rational, consistent and inflexible principle which can be invoked in determining the question as to whether the veil of

[5] (1996) 4 SCC 622

the corporation should be lifted or not.

In the matter of: *Balwant Rai Saluja & Anr* v. *Air India Limited & Ors*[6], it was held that:

a. The corporate veil can be pierced only if there is some impropriety; the impropriety in question must be linked to the use of the company structure to avoid or conceal liability.

b. To justify piercing of the corporate veil, there must be both control of the company vested in the wrongdoer and impropriety, that is use or misuse of the company by the wrongdoer. A company may be a 'façade' even though it was not originally incorporated with any deceptive intent, provided that it is being used for the purpose of deception at the time of the relevant transactions. The court can, as a matter of practice and principle, pierce the corporate veil only so far as it is necessary in order to provide a remedy for the particular wrong which those controlling the company had done.

In the matter of: *Telefonaktiebolaget LM Ericsson (PUBL)* v. *Micromax Informatics Ltd & Ors*[7], it was held that, "…*the corporate veil can be pierced and the parent company can be held liable for the conduct of its subsidiary, only if it is known that the corporate form is misused to accomplish certain wrongful purposes, and further that the parent company is a direct participant in the wrong-doing complained of*…"

If 'Company X' files a suit against 'Company Y' alleging patent infringement and prays the Hon'ble Court that till the time the suit is pending for adjudication before it, 'Company Y' be made liable to pay 'Company X' royalty at the rate the Hon'ble Court deems fit, and, the Hon'ble Court grants the interlocutory relief to 'Company X' as regards the payment of royalty, but then, in the meantime 'Company Z' gets incorporated and the directors and manufacturing operations of 'Company Z' are the same as that of 'Company Y'. 'Company Z' is wholly owned subsidiary of 'Company Y' and it indulges itself in the use of patents as regards which suit was filed by 'Company X' against 'Company Y' without making interim payments to 'Company X'. Here, 'Company Z' can be seen as a device employed by 'Company Y' to surpass the order of the Hon'ble Court as regards interim payments of royalty that were to be made by 'Company Y' to 'Company X', hence, the controlling authority of 'Company Y' and 'Company Z' that is the common directors of both the companies are amenable to contempt proceedings for breach of the order of the Hon'ble Court, and this is in fact a perfect case whereby the doctrine of lifting up of the corporate

[6] (2014) 9 SCC 407

[7] CCP No. 71/2015 in CS (OS) No. 442/2013, High Court of Delhi, Coram: Najmi Waziri, J., Date of Decision: 02.12.2015

veil can be employed by the Court to catch hold of the real perpetrators.

In the matter of: *Life Insurance Corporation of India* v. *Escorts Ltd & Ors*[8], while discussing the doctrine of lifting up of the corporate veil, the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India, observed that:

"…*Generally, and broadly speaking, we may say that the corporate veil may be lifted where a statute itself contemplates lifting the veil, or fraud or improper conduct is intended to be prevented, or a taxing statute or a beneficent statute is sought to be evaded or where associated companies are inextricably connected as to be, in reality, part of one concern. It is neither necessary nor desirable to enumerate the classes of cases where lifting the veil is permissible, since that must necessarily depend on the relevant statutory or other provisions, the object sought to be achieved, the impugned conduct, the involvement of the element of the public interest, the effect on parties who may be affected etc.* …."

Principle III: "Under Insurance & Averaging Out"

'Under insurance' basically means that the insured has taken out an insurance policy in which he has valued the insured items for a sum which is less than the actual value of the insured items. In India, this is normally done to pay a lesser premium. This practice of 'under insurance' is in fact harmful to the policy holder and not to the insurance company because even if the entire insured property is lost, the policy holder only gets the maximum sum for which the property has been insured and not a paisa more than the sum insured.

Under Insurance: In case a person takes out the householder policy covering fire insurance and gives the value of the structure of his house and goods stored therein at Rs. 50,00,000/- even though the actual value of the same is Rs. 100,00,000/-, then even if the entire house and goods stored therein are completely lost in fire, the insured cannot get an amount above Rs. 50,00,000/- even though the value of the house and goods stored therein may be more.

If all the insured goods are lost then there is no problem. The insured is entitled to the amount for which the goods were insured even if that be less than the actual value of the goods. Thus, in case a person gets a painting insured for Rs. 1,00,000/- though the value of the same is Rs. 10,00,000/-, if the painting is lost the insured is entitled to Rs. 1,00,000/- only. If all the insured goods falling under one head are stolen or lost then the insurance company cannot apply the principle of 'averaging out' because though the loss may be of Rs. 10,00,000/-, the claimant will get only Rs. 1,00,000/- as per the value assessed and insurance premium paid by the insured.

Averaging Out: The insurance company (insurer) can apply the principle of averaging out when all the goods are not destroyed. Supposing the entire house was insured for Rs. 50,00,000/-, but on valuation it is found that the value of the structure

[8] (1986) 1 SCC 264

and the goods was Rs. 100,00,000/- and if the policy holder claims that he has suffered loss of Rs. 40,00,000/- then he will be entitled to only Rs. 20,00,000/- (that is, 50% of the loss suffered) by applying the principle of averaging out. What this means is that if the value of the goods is more than the sum for which they are insured then it is presumed that the policy holder has not taken out insurance policy for the un-insured value of the goods. The claim is therefore allowed by applying the principle of averaging out, that is, the insured is paid an amount proportionate to the extent of insurance as compared to the actual value of the goods insured.

Example: Supposing, the insured owns two paintings of Rs. 5,00,000/- each but pays premium for insurance cover of Rs. 1,00,000/- for both the paintings. If one painting is lost, even though the value of the painting may be Rs. 5,00,000/- he will not get Rs. 1,00,000/- but will get only Rs. 50,000/- as proportionate amount. Therefore, when a group of items is insured under one heading and only some of the items and not all items are lost/stolen then the principle of 'under insurance' will apply. Nonetheless, if all or most of the items of value covered under the policy are stolen, then the insurance company (insurer) is bound to pay the value of the goods insured[9].

Averaging Out = (Loss Suffered/ Actual Value of Goods) x (Insured Amount)

Principle IV: "*Contra Proferentum*"

The common law rule of construction "*verba chartarum fortius accipiuntur contra proferentem*" means that ambiguity in the wording of a commercial contract (contract of insurance) is to be resolved against the party who prepared it. It is well-settled law that there is no difference between a contract of insurance and any other contract, and that it should be construed strictly without adding or deleting anything from the terms thereof[10]. In the matter of: *General Assurance Society Ltd.* v. *Chandmull Jain & Anr.*[11], it was held that:

a. There is no difference between a contract of insurance and any other contract except that in a contract of insurance there is requirement of *uberima fides,* that is, good faith on the part of the insured and the contract is likely to be construed *contra proferentes*, that is, against the insurance company in case of ambiguity or doubt.

b. The duty of the court is to interpret the words in which the contract is expressed by the parties and it is not

[9] See: *I.C. Sharma* v. *Oriental Insurance Co. Ltd.*, Civil Appeal No. 3167/2017 (Supreme Court of India), Date of Decision: 10.01.2018, Coram: Madan B. Lokur & Deepak Gupta, JJ

[10] See: *M/s. Industrial Promotion & Investment Corporation of Orissa Ltd.* v. *New India Assurance Co. Ltd. & Anr*, Civil Appeal No. 1130/2007 (Supreme Court of India), Date of Decision: 22.08.2016, Coram: Anil R. Dave & L. Nageswara Rao, JJ

[11] (1966) 3 SCR 500

for the court to make a new contract, however reasonable.

In the matter of: *United India Insurance Co. Ltd.* v. *Orient Treasures (P) Ltd.*[12], it was held that:

a. A standard policy of insurance is different from other contracts and in a claim under a standard policy the rule of *contra proferentem* is to be applied.

b. If there is no ambiguity in the insurance policy then the rule of *contra proferentem* is not applicable.

Principle V: "Arbitration or Adjudication by the Court"

If a contract entered into between the parties provides that in case of dispute, the parties to the contract will try to resolve their disputes through mutual negotiations and amicable settlement, failing which, the aggrieved party will be free to take the legal recourse of "arbitration or court adjudication", then, if the aggrieved party takes the legal recourse of arbitration instead of court adjudication then it cannot be termed as void or illegal on the reasoning that there was no proper arbitration clause in the contract and in absence of a proper arbitration clause (which forms an arbitration agreement) ventilation of grievance by the aggrieved party through the arbitration mechanism is not only improper but is rather *non est*.

In the matter of: *M/s. Zhejiang Bonly Elevator Guide Rail Manufacture Co. Ltd.* v. *M/s. Jade Elevator Components*[13], it was held that:

a. Whenever the 'dispute settlement clause' in a contract gives an option to the parties to the contract to get their disputes resolved through 'arbitration' or 'court adjudication' then it is open for the aggrieved party to either go for 'arbitration' or 'court adjudication' for resolution of its grievances, and,

b. It cannot be said that the 'dispute settlement clause' is not in the nature of an arbitration agreement and thus, the remedy of arbitration for resolution of disputes is not available with the aggrieved party, and,

c. The aggrieved party is always at liberty to exercise any of the options available to it by virtue of the 'dispute settlement clause', that is, to either go for alternate dispute settlement mechanism (arbitration) or court adjudication of dispute.

d. Para 11 of the judgment, *M/s. Zhejiang Bonly Elevator Guide Rail Manufacture Co. Ltd.* (Supra) states as under:

"…*In the case at hand, as we find, Clause 15 refers to arbitration or court. Thus, there is an option and the petitioner has invoked the arbitration clause and, therefore, we have no*

[12] (2016) 3 SCC 49

[13] Arbitration Petition (Civil) No. 22 of 2018 (Supreme Court of India), Date of Decision: 14.09.2018

hesitation, in the obtaining factual matrix of the case, for appointment of an arbitrator…"

Principle VI: "Claim for Damages"

In the matter of: *M/s. Construction & Design Services* v. *Delhi Development Authority*[14], the questions that arose for adjudication before the Hon'ble Supreme Court of India were:

I. When and to what extent can the stipulated liquidated damages for breach of a contract be held to be in the nature of penalty in absence of evidence of actual loss and to what extent the stipulation be taken to be the measure of compensation for the loss suffered even in absence of specific evidence?

II. Whether burden of proving that the amount stipulated as damages for breach of contract was penalty is on the person committing breach?

Answering the questions formulated above, the Hon'ble Supreme Court of India, held as follows:

a. The jurisdiction of the court to award compensation in case of breach of contract is unqualified except as to the maximum stipulated; and compensation has to be reasonable.

b. Under Section 73 of the Indian Contract Act, 1872, when a contract has been broken, the party who suffers by such breach is entitled to receive compensation for any loss caused to him which the parties knew when they made the contract to be likely to result from the breach of it.

c. Section 73 of the Indian Contract Act, 1872 is to be read with Section 74 of the Indian Contract Act, 1872 which deals with penalty stipulated in the contract. Section 74 of the Indian Contract Act, 1872 provides that when a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of breach is entitled, whether or not actual loss is proved to have been caused, thereby to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named.

d. Section 73 of the Indian Contract Act, 1872 categorically states that, compensation is not to be given to the aggrieved party for any remote and/or indirect loss (or damage) sustained by it, by reason of breach of contract.

[14] Civil Appeal Nos. 1440-1441/2015 (Supreme Court of India), Date of Decision: 04.02.2015, Coram: T.S. Thakur & A.K. Goel, JJ.

e. Section 74 of the Indian Contract Act, 1872 emphasizes that in case of breach of contract, the party complaining of the breach is entitled to receive reasonable compensation whether or not actual loss is proved to have been caused by such breach. Thus, the emphasis is on "reasonable compensation". If the compensation named in the contract is by way of penalty, consideration would be different and the party is only entitled to reasonable compensation for the loss suffered. But if the compensation named in the contract for breach is 'genuine pre-estimate of loss' which parties knew when they made the contract to be likely to result from the breach of it, there is no question of proving such loss or such party is not required to lead evidence to prove actual loss suffered by him. Burden is on the other party to lead evidence for proving that no loss is likely to have occurred by such breach of contract.

f. If there is delay in completing the construction of road or bridge within the stipulated time by the contractor, then it would be difficult to prove how much loss is suffered by the society or State owing to such delay in the completion of the work. In such cases it could certainly be presumed that delay in executing the work resulted in loss for which the employer was entitled to reasonable compensation. Although evidence of precise amount of loss may not be possible but in absence of any evidence by the party committing breach that no loss was suffered by the party complaining of breach, the court has to proceed on 'guess work' as to the quantum of compensation to be allowed in given circumstances.

Further, in *ONGC Ltd.* v. *Saw Pipes Ltd.*[15], it was observed that:

"*…41. Therefore, when parties have expressly agreed that recovery from the contractor for breach of the contract is pre-estimated genuine liquidated damages and is not by way of penalty duly agreed by the parties, there was no justifiable reason for the Arbitral Tribunal to arrive at a conclusion that still the purchaser should prove loss suffered by it because of delay in supply of goods.*

42. Further, in arbitration proceedings, the Arbitral Tribunal is required to decide the dispute in accordance with the terms of the contract. The agreement between the parties specifically provides that without prejudice to any other right or remedy if the contractor fails to deliver the stores within the stipulated time, the appellant will be entitled to recover from the contractor, as agreed, liquidated damages equivalent to 1% of the contract price of the whole unit per week for such delay. Such recovery of liquidated damages could be at the most up to 10% of the contract price of whole unit of stores…"

[15] (2003) 5 SCC 705

That the principle of law that emerges from the precedent cited above can be summarised as under:

1. Terms of contract are required to be taken into consideration before arriving at the conclusion whether or not the party claiming damages is entitled to the same;

2. If the terms are clear and unambiguous stipulating the liquidated damages in case of breach of contract (and such estimate of damages/compensation is reasonable and is not by way of penalty), the party who has committed the breach is required to pay such compensation to the aggrieved party and this is what is provided in Section 73 of the Contract Act, 1872;

3. Section 74 of the Contract Act, 1872 is to be read along with Section 73 of the Contract Act, 1872 and, therefore, in every case of breach of contract, the person aggrieved by the breach is not required to prove actual loss or damage suffered by him before he can claim a decree. The court is competent to award reasonable compensation in case of breach even if no actual damage is proved to have been suffered in consequence of the breach of a contract; and,

4. In some contracts, it would be impossible for the court to assess the compensation arising from breach and if the compensation contemplated is not by way of penalty or unreasonable, the court can award the same if it is 'genuine pre-estimate' by the parties as the measure of reasonable compensation.

Principle VII: "*Ownership in property can be gifted without transfer of possession of property*"

a. Gift means to transfer certain existing moveable/immovable property voluntarily and without consideration by one person called the donor to another called the donee and accepted by or on behalf of the donee[16].

b. As far as an immovable property is concerned, execution of a registered gift deed followed by acceptance of the gift and delivery of the property together make the gift complete. Once a property is gifted, the donor is divested of his title and the donee becomes absolute owner of the property.

c. A conditional gift with no recital of acceptance and no evidence in proof of acceptance, where possession remains with the donor as long as he is alive, does not become complete during the lifetime of the donor. When a gift is incomplete

[16] See: *Naramadaben Maganlal Thakker* V/s *Pranivandas Maganlal Thakker & Ors*, (1997) 2 SCC 255

and title remains with the donor the deed of gift might be cancelled.

d. In the matter of: *Reninkuntla Rajamma* v. *K. Sarwanamma*[17], it was held that:

i. There is no provision in law that ownership in property cannot be gifted without transfer of possession of such property.

ii. A gift is transfer of property without consideration. A conditional gift only becomes complete on compliance of the conditions in the deed.

iii. A conjoint reading of Sections 122 (*"Gift" defined*) and 123 (*Transfer how effected*) of the Transfer of Property Act, 1882 makes it abundantly clear that "transfer of possession" of the property covered by the registered instrument of the gift duly signed by the donor and attested as required is not a *sine qua non* for making of a valid gift.

iv. Section 123 of the Transfer of Property Act, 1882 is in two parts. The first part deals with gifts of immovable property while the second part deals with gifts of movable property. The difference in the two provisions lies in the fact that in so far as the transfer of movable property by way of gift is concerned the same can be by a registered instrument or by delivery. Such transfer in the case of immovable property no doubt requires a registered instrument but the provision does not make delivery of possession of the immovable property gifted as an additional requirement for the gift to be valid and effective. **If the intention of the legislature was to make delivery of possession of the property gifted also as a condition precedent for a valid gift, the provision could and indeed would have specifically said so.** There is indeed no provision in law that ownership in property cannot be gifted without transfer of possession of such property. Absence of any such requirement can only lead to the conclusion that delivery of possession is not an essential pre-requisite for the making of a valid gift in the case of immovable property.

v. Gift of immovable property reserving life interest in property for donor is valid.

vi. If property is gifted by retaining possession and right to receive rents of property by donor during donor's lifetime then such a gift of

[17] (2014) 9 SCC 445

immovable property cannot be termed as invalid.

e. In the matter of: *S. Sarojini Amma* v. *Velayudhan Pillai Sreekumar*[18], it was held that:

"*…19. In the instant case, admittedly, the deed of transfer was executed for consideration and was in any case conditional subject to the condition that the donee would look after the petitioner and her husband and subject to the condition that the gift would take effect after the death of the donor. We are thus constrained to hold that there was no completed gift of the property in question by the appellant to the respondent and the appellant was within her right in cancelling the deed…*"

f. In the matter of: *Commissioner of Gift Tax* v. *Aloka Lata*[19], the Division Bench of the High Court of Calcutta observed that:

i. It cannot be said that the transaction was complete and a gift in the eyes of law came to be made by the donor to the donee, prior to the registration of the document by which the gift was made;

ii. Under Section 47 of the Registration Act, 1908, a registered document operates from the date of its execution and not from the date of its registration;

iii. That registration of a document relates back to the date of its execution between the parties thereto, but as regards third parties, it is effective from the date of its registration;

iv. That where an instrument, which purports to transfer title to property is required to be registered, the title does not pass until registration has been done; no new title is created by registration, and registration in fact only affirms a title which has been created by the deed; and,

v. That a gift of immovable property cannot be completed, without a registered instrument.

Principle VIII: "*Specific Performance of an Agreement to Gift*"

The question as regards specific performance of an agreement to gift came up for consideration in the matter of: *Hiralal Chimanlal* v. *Gavrishankar Ambashankar*[20], and it was categorically held that no specific performance of an agreement to gift can be

[18] Civil Appeal No. 10785/2018 (Supreme Court of India), Date of Decision: 26.10.2018, Coram: Arun Mishra & Indira Banerjee, JJ.

[19] (1991) 190 ITR 556

[20] AIR 1928 Bom 250 (DB) *See also S.P. Muthusamy* V/s *V. Thayammal*, MANU/TN/1101/2002

claimed. On the basis of an unregistered gift deed, no title can be claimed[21].

Principle IX: "*Section 23 read with Section 25 of the Registration Act, 1908: Registration is to be done within 'Eight Months' from the date of execution of a document required to be registered*"

Though, Section 23 of the Registration Act, 1908 provides the period of four (4) months from the date of execution, for presentation of a document for registration but Section 25 of the Registration Act, 1908 permits the Registrar of Documents to condone delay. Section 25 of the Registration Act, 1908 permits the document to be presented for registration beyond four (4) months from the date of execution prescribed in Section 23 of the Registration Act, 1908, only within maximum further period of four (4) months, that is, within eight (8) months from the date of execution of the document.

In the matter of: *Aspire Investments (P) Ltd.* v. *Nexgen Edusolutions (P) Ltd*[22], it was held that, under Section 25 of the Registration Act, 1908, maximum eight (8) months period is available for registration from the date of execution of a document and failure to have the same registered tantamount to an abandonment of the contract and waiver of rights.

Further, in the matter of: *Subhash Chander Ahuja* v. *Ashok Kumar Ahuja*[23], it was held that, the Registration Act, 1908 prescribes that a document must be presented for registration within four (4) months of its execution and thereafter it may be done within a further period of four (4) months but with special leave of the Registrar of Documents under the Registration Act, 1908. Lastly, in the matter of: *Raj Kumar Dey* v. *Tarapada Dey*[24], it was observed that, the cumulative effect of Sections 23 and 25 of the Registration Act, 1908 when read together is that, total period of eight (8) months is available for registration from the date of execution of the document which is required to be registered.

Principle X: "*Composite Document: 'Will' as well as Gift*"

In the matter of: *Mathai Samuel* v. *Eapen Eapen*[25], it was held that a composite document which has characteristics of a Will as well as gift, it may be necessary to have that document registered, otherwise that part of the document which has the effect of a gift cannot be given effect to[26].

[21] *Nasir* v. *Govt. of NCT of Delhi*, MANU/DE/3170/2015
[22] 220 (2015) DLT 316
[23] 116 (2005) DLT 125
[24] (1987) 4 SCC 398
[25] (2012) 13 SCC 80
[26] *Prem Prakash Gupta* v. *Sanjay Aggarwal*, CS (OS) 272/2017, High Court of Delhi, Date of Decision: 09.01.2018, Coram: Rajiv Sahai Endlaw, J