

**(Equivalent Citation:- 1996(1) AD(Delhi) 281)**

**61 (1996) DELHI LAW TIMES 406**

**DELHI HIGH COURT**

**K. Ramamoorthy, J.**

**ATUL TALWAR—Plaintiff**

*versus*

**VINOD KUMAR KHURANA & ORS.—Defendants**

IA No. 8049, 8186, 8584 & IA 9545 of 1995 in Suit No. 1840 of 1995—Decided  
on 22.12.1995

**Civil Procedure Code, 1908—Order 39, Rules 1 and 2—Injunction—  
Suit for specific performance on the basis of agreement for sale-receipts—  
Contract—Defendants pleading non-est factum—No acceptable explanation  
by plaintiff with regard to documents filed—Contract not on consensus ad  
idem—No prima facie case—Not entitled to injunction.**

**Held:** I do not find anything that can be called in aid by the plaintiff in this case in proof of the agreement for sale by him on the facts and circumstances of this case. I am aware that defendants 1 and 2 are putting forth the plea of non-est factum and that has to be considered with very care and caution and the facts should be scarefully considered. In the absence of any acceptable explanation by the plaintiff with regard to the documents filed by him, I am not able to say that the receipt filed by the plaintiff regarding the contract between the parties having been arrived at on consensus *ad idem prima facie* the receipt filed by the plaintiff appear to be not contracts into the plaintiff and defendants 1 and 2 and in my view they are also not true. I am of the view that the case of first and second defendants appears to be a *prima facie* true. Therefore, I find that the plaintiff has not made out a *prima facie* strong case for grant of injunction.

[\(Para 15\)](#)

**Result: IA 8049/95 dismissed.**

**Cases referred:**

1. AIR 1988 Cal. 25. (Referred) [\(Para 18\)](#)
2. AIR 1991 Mad. 137. (Referred) [\(Para 18\)](#)
3. AIR 1981 (2) SCC 675. (Referred) [\(Para 18\)](#)
4. AIR 1986 Del. 364. (Referred) [\(Para 18\)](#)
5. AIR 1981 Del. 315. (Not Applicable) [\(Para 15\)](#)
6. AIR 1948 PC 147. (Referred) [\(Para 18\)](#)

**Counsel for the Parties:**

For the Plaintiff: **Mr. Sunil Magon, Advocate.**

For the Defendants: **Mr. R.M. Sinha, Advocate.**