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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010386982026
+ **FAO(OS) (COMM) 222/2026**

BINDU BHUSHAN DUBEY (SINCE DECEASED) THR HIS
LRS Appellant

Through: Mr. Pankaj Sinha, Ms. Humaira
Salam, Mr. Kulwinder Sehgal,
Advocates.

versus

M/S VIJAI ELECTRICALS LTD AND ANR Respondents

Through: Mr. Sanjeev Mahajan, Senior
Advocate with Ms. Simran Rao,
Advocate.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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20.08.2026

CM APPL. 55735/2026 (for delay in re-filing)

1. Instant application has been filed by the appellant under Section 151 of the Civil Procedure Code, 1908 seeking condonation of delay in re-filing the present appeal.
2. For the grounds and reasons stated in the application, the same is allowed. The delay of 25 days in re-filing the present appeal is condoned.
3. The application stands disposed of.

CM APPL. 55732/2026 (for delay in filing)

4. Instant application has been filed by the appellant under Section 151 of



the Civil Procedure Code, 1908 seeking condonation of delay in filing the present appeal.

5. Mr. Sanjeev Mahajan, learned Senior Counsel for the respondents, has fairly expressed no objection to the delay in filing the present appeal, considering that the plaintiff-Mr. Bindu Bhushan has since passed away during the pendency of the suit and the appellants are his LRs. The application is allowed and the delay of 377 days in filing the present appeal is condoned.

FAO(OS) (COMM) 222/2026, CM APPL. 55733/2026, CM APPL. 55734/2026

6. Mr. Pankaj Sinha, learned counsel for the appellant, argued that the learned Single Judge vide impugned order dated 05.05.2025 has erred in dismissing the appellant's suit *qua* prayer (d) for injuncting respondents from taking possession of the property, which was given to the appellants for residing therein, as per terms of employment.

7. He argued that the agreement between the appellants and the respondent company clearly shows that House No. 231, Pocket - F, Sarita Vihar, Mathura Road, Delhi – 110076 (*hereinafter referred to as 'the subject property'*) was given to Late Bindu Bhushan as a condition of employment, and since the respondent company has not paid the due salary to him, he had a legal lien over the property and until such dues are cleared by the respondent company, the appellants are entitled to retain possession of the property. He argued that the learned Single Judge ought to have protected possession of the residential flat in favour of the appellants, until the disposal of the suit.

8. Mr. Sanjeev Mahajan, learned Senior Counsel for the respondents, on the other hand, argued that the appellants have no legal right to remain in possession. He argued that the plea of lien over the property is unsustainable



in the eyes of law, as the agreement in question does not create any lien over the property, while maintaining that no arrears of salary were due. He further submitted that the suit for recovery of arrears of salary is still pending before the Court and when the basic fact about the salary being due itself is disputed by the respondent, even if the suit is decreed, then also, the appellants cannot claim right of residence in that property, unless they can otherwise prove their right to remain in possession. Because it is an admitted fact that the respondent is the owner of the property and employer-employee relationship between the appellant and respondent has ceased to exist.

9. He further submitted that even if it is assumed that there is some semblance of a right of the employee by virtue of the fact that the residential flat was provided to him by the company as a facility, but since the employee – Mr. Bindu Bhushan has since passed away on 08.10.2025, such employer-employee relationship (even if it existed), had come to an end. And after his demise, the present appellants being his legal heirs, can at the best continue to pursue the case relating to due salary (if any), against respondent company, but by no stretch of imagination can they continue the so-called right of retaining the possession of the subject property under the guise of lien over the property.

10. He further submitted that the appellants being legal heirs/ representatives (*hereinafter referred to as 'LRs'*) of said Late Bindu Bhushan, have even left the subject property and have started residing in Ranchi, Jharkhand, and therefore, the present appeal and stay application, are not only frivolous but have been preferred with a view to create unnecessary pressure upon the respondent company.

11. Having heard learned counsel for the parties, we are of the view that the



learned Single Judge has committed no error of law in dismissing the suit *qua* the appellant's prayer seeking injunction relating to subject property.

12. On perusal of the agreement dated 01.01.2012, we find that there is no clause conferring any right to retain possession of the property by said Late Bindu Bhushan, in case any salary remained unpaid or due. The mere fact that apart from the stipulation of payment of salary, there is also a stipulation of handing over of the accommodation, by itself, does not create a lien over the subject property, as claimed by the appellant. Lien can be created by a specific stipulation in the agreement or by necessary intendment or operation of law. It cannot be inferred, as suggested by Mr. Sinha, learned counsel for the appellant.

13. That apart, the fact that said Bindu Bhushan has passed away on 08.10.2025, has an important bearing on the rights of the present appellants (being his legal heirs) to continue with the possession of the subject residential flat. Learned Single Judge has rightly held no cause of action to be existing *qua* prayer (d). The present appellants neither have any subsisting right to continue with the possession of the flat nor do they have any right of inheritance, as the flat did not belong to Late Bindu Bhushan. He had only a right to reside in it, being an employee of respondent company. The right of residence as a facility or allowance of employment, unlike the right of tenancy, is not inheritable.

14. The right which has devolved upon the present appellants, being the LR's/legal heirs of Late Bindu Bhushan, is only a right to receive the due salary (if any), which purportedly remained due to their prepositus. We, therefore, hardly find any merit or substance in the present appeal. The same is, therefore, dismissed along with all pending applications.



15. Appellant No.1 - the widow and appellant Nos. 2 and 3 - minor daughters of Late Bindu Bhushan (who has passed away), who are having possession of the subject residential flat, who are presently residing in Ranchi, Jharkhand, appeared through Video Conferencing. After having dictated the order, the Court interacted with them and explained them the legal possession, then, they sought some time to vacate the premises.

16. This Court deems it appropriate to grant them time upto 30.09.2026, to hand over peaceful possession of the subject residential property to the representative of the respondent company. In case, the possession is not handed over by 30.09.2026, the respondent shall be free to take possession of the property in accordance with law.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

AUGUST 20, 2026/nd