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

+ CS(OS)2351/2011

URMIL GUPTA

..... Plaintiff

Through: None

versus

ARUN KUMAR NARDA

..... Defendant

Through: Mr. D.S. Dalal, Advocate with
Ms. Sunita and Mr. Ansh, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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22.01.2016

REVIEW PET. 30/2016 (by the defendant for review of the order dated 28.04.2015) and I.A. 1068/2016 (for condonation of delay)

1. The present review application has been filed by the defendant praying *inter alia* for seeking review of the order dated 28.04.2015, that had disposed of the suit in view of the submission made by the counsel for the defendant that his client is neither the owner nor in possession of the suit premises. Rather, it was the defendant's case that the suit is not maintainable against him as he had neither tried to dispossess the plaintiff from the suit premises in the past and nor did

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he intend to do so in the future.

2. In view of the submission made by the defendant as recorded in para 4 of the order dated 28.04.2015, the suit was decreed under Order XII Rule 6 CPC.

3. Counsel for the defendant seeks a review of the aforesaid order on the ground that while disposing of the suit, the previous orders passed was recorded in para 2 of the order dated 28.04.2015, wherein it was noted that a Local Commissioner had been appointed to visit the suit premises so as to verify the status of possession and in the meantime, status quo in respect of the suit premises was directed to be maintained in terms of his report. It was also noted that the Local Commissioner had executed the commission and submitted a report dated 27.09.2011, observing *inter alia* that it *prima facie* appeared that the suit premises is in the possession of the plaintiff.

4. Counsel for the defendant submits that the aforesaid observation runs contrary to the report of the Local Commissioner and needs rectification.

5. The Court has perused the report of the Local Commissioner filed under index dated 27.09.2011. The Local Commissioner has specifically stated in para 6 of the said report that "*prima facie*, the

suit premises appeared to be in the possession of the plaintiff". That being the position, this Court is of the opinion that there is no error apparent on the face of the record, which requires review.

6. The review application is dismissed as being devoid of merits alongwith the pending application.

JANUARY 22, 2016

rkb/ap

HIMA KOHLI, J