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

+ RFA 331/2015 and CM No.8904/2015

RAKESH CHAUDHARY Appellant

Through: Mr. Anil Sharma and Mr. Brijesh
Sharma, Advocates

versus

BEENA DEVI (SINCE DECEASED)

THR HER LRS Respondents

Through: Mr. N.P. Singh and Mr. S.K. Singh,
Advocates

+ FAO 156/2015 and CM No.8972/2015

RAKESH CHAUDHARY Appellant

Through: Mr. Anil Sharma and Mr. Brijesh
Sharma, Advocates

versus

SMT BEENA DEVI SINCE DECEASED

THR HER LRS Respondents

Through: Mr. N.P. Singh and Mr. S.K. Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **02.07.2015**

1. The captioned appeals are filed against two separate judgments passed by the trial court. RFA 331/2015 is instituted to assail the judgment and decree dated 01.11.2014, while FAO 156/2015 is directed against the judgment dated 25.04.2015.

RFA 331/2015 & FAO 156/2015

page 1 of 3

3

1.1 In so far as judgment dated 01.11.2014 is concerned, it is passed in the suit filed by the deceased Smt. Beena Devi, who since then is being represented by her legal representatives. By virtue of judgement a decree of possession and mesne profits stand awarded in favour of the respondents.

1.2 To be noted, the judgment dated 25.04.2015 has been passed by the trial court in an application filed by the appellant under Order 9 Rule 13 for setting aside the judgment dated 01.11.2014.

1.2 This situation arose as defence of the appellant was struck out and thereafter the court proceeded to pass the judgment dated 01.11.2014.

2. Before me, both parties are represented by counsels.

2.1 After some arguments, the learned counsel for the parties have agreed that the captioned appeals be disposed of based on the following directions:-

(i). The appellant will deposit mesne profit / damages equivalent to 75% of the amount awarded by the trial court vide its judgment dated 01.11.2014.

(ii). The deposit in terms of clause (i) above, will be made within four weeks from today.

(iii). On the aforementioned amount being deposited, the Registry will invest the same in an interest bearing fixed deposit maintained with a nationalized bank.

(iv). The respondents will be at liberty to move this court for release of the amount deposited against solvent security.

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(v). The trial court will permit the appellant to file a written statement. The appellant will appear before the trial court on 06.07.2015.

(vi). The respondents will be at liberty to file a replication, if they so desire, upon a written statement being filed by the appellant within 15 days commencing from 06.07.2015. Thereafter, opportunity will be given to the parties to lead their evidence in the matter.

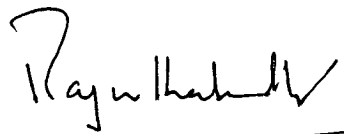
(vii). Since, the appellant has no objection to the respondents taking possession of the suit premises, the trial court will ascertain the issue via-a-vis the payment of arrears of rent and damages.

(viii). In case the trial court comes to the conclusion that the appellant is not obliged to pay arrears of rent and / or mesne profit, the logical direction for recouping the amount from the respondents will be issued qua the amount, if any, released to them. Upon such a direction being issued, the respondents will retribute the appellant within four weeks of such a direction being issued.

3. The captioned appeals and the pending applications are disposed of, in terms of the aforesaid directions.

4. Since, the issue involved is short, the trial court will endeavour to hasten the proceedings.

5. Dasti to both parties.


RAJIV SHAKDHER, J

JULY 02, 2015

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RFA 331/2015 & FAO 156/2015

page 3 of 3