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

+ **FAO(OS) 428/2015**

VINOD KUMAR BAKSHI

..... Appellant

Through : Mr Sameer Sharma with appellant in person

versus

RAJAN KAPOOR & ORS

..... Respondent

Through : Mr Vikas Dhawan with Mr S. Panda for R-1.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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17.08.2015

CM No. 13753/2015 (delay in re-filing)

The delay in re-filing is condoned.

The application stands disposed of.

FAO(OS) 428/2015 & CM 13750/2015 (stay)

This appeal is directed against the order dated 25.03.2015 passed by a learned Single Judge of this court in Review Petition No. 28/2014 in CS(OS) No. 1304/2009. The main plank of argument raised by the learned counsel for the appellant is that respondent No. 1 is not the owner of the premises in question. We are afraid that this point is not available to the appellant at all inasmuch as it has been settled that the appellant was a tenant of respondent No. 1. This has been settled by a Division Bench order dated 13.01.2014 in RFA(OS) 8/2014. Pursuant to that order, possession has also been returned to respondent No. 1. Even the Special Leave Petition filed by the appellant before the Supreme Court was dismissed on 19.01.2015 [in SLP(C) No. 8151/2014]. Thus, it is clear that the ground sought to be urged before us that the appellant was not

the tenant of respondent No. 1 and that respondent No. 1 was not the owner of the premises in question is no longer open to debate.

Apart from this, we note that the learned Single Judge has recalled the earlier order after realising that on the earlier occasion the provisions of Order XV-A CPC had not been noticed by the learned Single Judge. The learned Single Judge has candidly noted that on the earlier occasion there was failure to notice the provisions of Order XV-A CPC under which the court did have the power to direct the defendants (appellant herein) to deposit the rent amount. It is based on this error which was apparent on the face of the record that the learned Single Judge has recalled the earlier order dated 26.11.2013 passed in I.A No. 12119/2011 and has consequently, directed the appellant herein to deposit the arrears of rent and occupancy charges at the admitted rent of Rs 25,000/- per month for the period 20.07.2006 till the date of handing over of the ground floor of the premises in question to respondent No. 1. We see no error in the impugned order, consequently, the appeal is dismissed with the costs of Rs 25,000/-.

CM No. 13752/2015 (condonation of delay in filing)

The application is also dismissed.

BADAR DURREZ AHMED, J

AUGUST 17, 2015
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SANJEEV SACHDEVA, J