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

+ **FAO 34/2016**

**PRAVEEN GUPTA** ..... Appellant

Through: Mr. Ashok Mahipal, Advocate

versus

**VINAY MEHTA** ..... Respondent

Through: Mr. Shanul Kadian, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**ORDER**

**15.07.2016**

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The challenge to the impugned order of 3<sup>rd</sup> December, 2015 is only to the extent that it rejects appellant's application under Order 39 Rule 10 CPC. It is noted in the impugned order that the relationship of landlord-tenant is denied by the respondent herein, who puts forth the version of loan transaction and so there being no admission on the part of respondent-defendant, the application has been dismissed.

At the hearing, learned counsel for appellant draws the attention of this Court to a registered Sale Deed (Annexure P-1) and Lease Deed (Annexure P-2) to submit that oral evidence to the contrary is inadmissible and the plea of respondent herein of having repaid the loan amount of ₹65 lacs in cash is to be taken with little pinch of salt because there is no independent witness to the false version put forth by respondent. On the other hand, learned counsel for respondent draws the

attention of this Court to the sale deed (Annexure P-1) and Lease Deed (Annexure P-2) and points out an anomaly regarding the dates therein as mentioned in the plaint (Annexure P-4).

Upon hearing and on perusal of the impugned order and the material on record, I find that there is an apparent contradiction between paragraphs No.1 and 2 of the plaint regarding the date of Sale Deed being 7<sup>th</sup> June, 2012 and the date of Lease Deed being 4<sup>th</sup> June, 2012. In such a situation and in view of the fact that there is a specific denial of the relationship of landlord and tenant and on account of confusion in the dates in the Sale Deed and the Lease Deed, I find that rejection of appellant's application under Order 39 Rule 10 CPC is justified. Otherwise also, since the appellant has failed to explain how the tenancy can commence prior to the execution of the documents, therefore, no case is made out for interfering with the impugned order.

Consequently, finding no substance in this appeal, it is dismissed while refraining to comment upon the merits on this case.

**(SUNIL GAUR)**  
**JUDGE**

**JULY 15, 2016**

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