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

+ RFA No.63/2016 & CM No.4237/2016 (for stay).

SHIV BAHADUR

..... Appellant

Through: Mr. Sumit proxy counsel for Mr.
Rahul Kadyan, Adv.

Versus

NITESH GOYAL

..... Respondent

Through: Mr. Aditya Malik, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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23.02.2016

1. This order is in continuation of the earlier order dated 5th February, 2016.
2. In response to the notice issued to the counsel for the respondent, the counsel appears.
3. Though the respondent is agreeable to disposal of the appeal in terms of the previous order dated 5th February, 2016 but states that the same be made subject to some payment by the appellant.
4. Considering the fact that the respondent/plaintiff had not sued for recovery of any *mesne profits* and further considering the fact that the appellant on the very first date gave an undertaking to the Court to vacate the premises on or before 30th September, 2016 it is deemed appropriate to at this stage not impose any further condition.
5. Accordingly, the appeal is dismissed as withdrawn. However the appellant, subject to complying with his undertaking, is given time till 30th September, 2016 to vacate the premises. Axiomatically, the

respondent/plaintiff will not execute the decree dated 24th November, 2015 of the Court of Shri Prashant Kumar, Additional District Judge-04 (NW)/Rohini Courts, Delhi in CS No.460/2014 for possession impugned in this appeal till 30th September, 2016.

5. It is however made clear that if the appellant does not comply with the undertaking given to the Court, the respondent/plaintiff besides execution shall be entitled to initiate proceedings against the appellant for contempt of Court.

6. The appellant has not deposited the Court Fees on the appeal till now. However, again considering the facts of the case and that the appeal is being disposed of, insistence thereon is not made.

7. The appeal is disposed of.

No costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 23, 2016

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