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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) No.48/2016, IA No.1568/2016 (under Order 39 Rules 1&2 of the CPC) and IA No.1569/2016 (under Order 39 Rule 10 of the CPC)
M/S O P DUA & SONS (HUF) Plaintiff

Through: Mr. Sanjeev Sabharwal, Sr. Adv. with
Mr. Pawan Mathur and Mr. Vasanth
Rajasekaran, Advs.

versus

KJMC CAPITAL MARKET SERVICES LIMITED Defendant

Through: Mr. Neeraj Jain, Adv for Defendant.
Mr. Aneesh Mittal, Adv.for Mr.
Pankaj Jain.
Mr. Akash Shinghal, Chartered
Accountant

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **31.08.2016**

1. This order is in continuation of yesterday's order.
2. The counsel for the defendant states that upon the plaintiff communicating the particulars of its bank account to the defendant by today, the amount of Rs.11,06,000/- alongwith Rs.41,000/- as interest towards arrears of rent i.e. total sum of Rs.11,47,000/- shall be remitted to the plaintiff immediately.
3. The counsel for the plaintiff has given the following RTGS details of the account in which the money is to be remitted.

“Account Name: O.P. Dua & Sons (HUF); ISC: UTI B0000126; A/c No.:
911010002900865; Bank: Axis Bank Limited, Lajpat Nagar Branch”.

4. The defendant through counsel undertakes to remit the said amount latest by day after tomorrow.

5. The counsel for the defendant also seeks time till 31st August, 2017 to vacate the premises and states that he has instruction from Mr. I.C. Jain and Mr. Girish Jain, Directors of the defendant to give undertaking to this Court as under:

- (i) to hand over the vacant, peaceful, physical possession of the premises as described in the order dated 30th August, 2016 on or before 31st August, 2017.
- (ii) to pay electricity, water and maintenance charges with respect to the said premises till the date of vacation of the premises.
- (iii) to, w.e.f. the month of September, 2016 and till the month of vacation of the premises as aforesaid, pay to the plaintiff by RTGS in the aforesaid account of the plaintiff, towards mesne profit/damages for use and occupation, a sum of Rs.1,20,000/- per month alongwith service tax, in advance for each month by the 15th day of each succeeding month.

(iv) not to cause any damage to the premises.

6. Mr. Aneesh Mittal, Advocate for Mr. Pankaj Jain who has filed suit for specific performance of an agreement to sell against the plaintiff and which suit is pending as suit No.04/2016 in the Court of Mr. Rajneesh Bhattnagar, ADJ, (Central), Tis Hazari Courts, Delhi states that he is the counsel for Mr. Pankaj Jain in the said suit and has instruction from Mr. Pankaj Jain, that subject to the plaintiff agreeing to grant time as aforesaid to the defendant to vacate the premises, Mr. Pankaj Jain shall within two weeks unconditionally withdraw the said suit and will not make any other claim against the plaintiff with respect to the subject premises or under the agreement to sell set up by him. He further states that Mr. Pankaj Jain or Mr. Khandelwal Jain & Company, Chartered Accountants who as recorded in the order dated 30th August, 2016 are stated to be operating from the premises aforesaid have no independent right to the said premises and shall not obstruct delivery of possession by the defendant of the premises in terms of the undertaking given by the defendant before this Court.

7. The counsel for the defendant on inquiry states that the defendant through the said Mr. I.C. Jain and Mr. Girish Jain are in control and possession of the entire premises and have not inducted any other person

into possession thereof and will hereafter not induct any person and are in a position to abide by the undertaking offered by them.,

8. The counsel for the plaintiff has no objection to the time being so granted subject to the undertakings aforesaid being accepted and abided with.

9. The counsel for Mr. Pankaj Jain states that he also gives undertaking on behalf of Mr. Pankaj Jain in terms of the above.

10. Counsels for Mr. Pankaj Jain and Mr. I.C. Jain and Mr. Girish Jain further state that they have made Mr. I.C. Jain, Mr. Girish Jain and Mr. Pankaj Jain aware of the consequences of breach of undertaking given to the Court.

10. The counsel for the plaintiff further states that in view of the aforesaid, the plaintiff will not press the claim in this suit for mesne profit.

11. Undertakings of Mr. I.C. Jain, Mr. Girish Jain and Mr. Pankaj Jain are accepted and they ordered to be bound thereby.

12. Subject to Mr. I.C. Jain, Mr. Girish Jain and Mr. Pankaj Jain abiding by their undertakings, the decree passed yesterday for ejectment shall not be executed till 31st August, 2017.

13. The counsel for the defendant states that the defendant be permitted to negotiate with the plaintiff for a fresh lease or for sale.

14. If a registered lease deed is signed by the parties and/or if a registered agreement to sell is executed between the parties, the defendant and Mr. Pankaj Jain, Mr. I.C. Jain and Mr. Girish Jain shall stand discharged from the undertakings given herein.

15. In terms of the aforesaid, the suit is disposed of.

16. No costs.

17. Mr. Pankaj Jain shall be entitled to make a prayer before the Court before which his suit for specific performance is pending for refund of Court Fees.

18. The date of 13th September, 2016 already fixed stands cancelled.

**AUGUST 31, 2016
M..**

RAJIV SAHAI ENDLAW, J