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

+ RFA No.81/2016, CM No.5780/2016 (for stay) & CM No.5782/2016
(for taking on record Annexure-A5)

KIRAN KAPOOR

..... Appellant

Through: Mr. Bhavesh Kumar Sharma, Adv.

versus

ASHWANI MEHRA

..... Respondent

Through: Mr. Abhinav Tyagi, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.02.2016**

1. This order is in continuation of the earlier order dated 17th February, 2016.
2. The counsel for the respondent appears. He states that his *Vakalatnama* is there in the Trial Court record and that he will also file a *Vakalatnama* in this appeal during the course of the day.
3. It has been agreed between the parties through counsels who state that they are authorised to act in this regard:-
 - (i) that the appellant will withdraw this appeal;
 - (ii) that the respondent will however not execute the decree for ejectment till 28th February, 2017;
 - (iii) that the appellant shall within four weeks of today pay to the respondent arrears of rent/*mesne* profits w.e.f. the month of November, 2014 till the month of February, 2016 @ Rs.30,000/- per month along with a sum of Rs.15,000/- for fifteen days of month of October, 2014;

- (iv) that the appellant w.e.f. the month of March, 2016 and till the month of vacation of the premises shall continue to pay a sum of Rs.30,000/- per month to the respondent in advance for each month by the 10th day of the month;
- (v) that the appellant shall before vacating the premises clear all electricity and water charges with respect to the premises;
- (vi) that the appellant is in exclusive control and possession of the entire decretal premises and is in a position to comply with the undertaking to be given to this Court in this regard;
- (vii) that subject to the appellant complying with his undertaking, the respondent at the time of vacation of the premises by the appellant shall refund to the appellant the security deposit of Rs.1 lac subject to deduction of claims if any of the respondent therefrom;
- (viii) that in terms of the above the inquiry pending before the Trial Court into *mesne* profits/arrears of rent shall not be proceeded with further.

4. The appellant through counsel undertakes to this Court in terms of above and to handover vacant peaceful physical possession of the premises to the respondent on or before 28th February, 2017 and to make the payments as hereinabove;

5. The appellant through counsel has been made aware of the consequences of breach of undertaking given to the Court.

6. The undertaking given by the appellant is accepted and the appellant is ordered to be bound thereby.

7. The appeal is dismissed as withdrawn leaving the parties to bear their own costs. However subject to the appellant complying with his undertaking as recorded aforesaid, the respondent shall not execute the decree for possession till 28th February, 2017.

Decree sheet be drawn up.

8. It is clarified that upon the failure of the appellant to abide by the undertaking, the respondent, besides executing the decree shall also be entitled to initiate proceedings against the appellant for contempt of Court.

Dasti.

RAJIV SAHAI ENDLAW, J

FEBRUARY 25, 2016

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