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

+ RFA No.78/2016, CM No.5391/2016 (for stay) & CM No.5393/2016
(for condonation of 6 days delay in filing the appeal).

RINKU SAINI & ORS

..... Appellants

Through: Mr. K.N. Popli, Adv. along with
appellants.

versus

SANT NIRANKARI MANDAL (REGD)

..... Respondent

Through: Mr. Joginder Sukhija, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.02.2016**

1. This order is in continuation of the earlier order dated 15th February, 2016.
2. The counsel for the three appellants who appears along with the appellants states that the appellants be granted one year's time to vacate the premises.
3. The counsel for the respondent/plaintiff/decreed holder also appears and though has after much persuasion agreed to the same but subject to payment of *mesne* profits/damages for use and occupation. It is stated that the property *ad measuring* about 600 sq. ft. is situated in Nirankari Colony where there is much demand for accommodation from the students and is capable of fetching a rent of Rs.20,000/- per month. It is stated that pursuant to the impugned decree on admissions for possession, the inquiry into *mesne* profits is pending consideration before the Trial Court. It is also stated that the appellants are not even paying the electricity and water charges for the premises.

4. The counsel for the appellants then under instructions from the appellants states that the appellants would vacate on or before 31st July, 2016 if the respondent/plaintiff/decreed holder gives up all other claims also against the appellants.

5. The counsel for the respondent/plaintiff/decreed holder under instructions from Mr. Krishan Kumar Selopal, Convener/Advocate (Legal Cell) of the respondent/plaintiff/decreed holder present in Court is agreeable thereto.

6. The three appellants present in Court through their counsel state that they are in control and possession of the entire property i.e. dormitory/one room, lobby with common toilet *ad measuring* 30 sq. yds. of House No.A-308, Gali No.4, Ground Floor, Nirankari Colony, Delhi and none else is in control and possession thereof and they are in a position to give an undertaking to this Court to deliver vacant peaceful physical possession of the same to the respondent/plaintiff/decreed holder. They undertake to this Court to handover vacant peaceful physical possession of the entire portion of the said property in their use/occupation/possession to the respondent/plaintiff/decreed holder on or before 31st July, 2016. They further undertake that they will hereinafter not induct/allow any other person into use/occupation/possession of the portion of the property in their occupation.

7. The appellants through Advocate have been made aware of the consequences of breach of undertaking given to the Court.

8. The undertaking of the appellants is accepted and the appellants are ordered to be bound thereby.

9. The counsel for the respondent/plaintiff/decreed holder states that subject to the appellants complying with their undertaking the respondent/plaintiff/decreed holder will not press the claim for *mesne* profits or any other claim cause of action wherefor may have accrued till now against the appellants.

10. Recording the aforesaid statements and binding the parties thereto the appeal is dismissed as withdrawn leaving the parties to bear their own costs.

11. It is made clear that upon failure of the appellants to comply with their undertaking aforesaid the respondent/plaintiff/decreed holder besides executing the decree for possession shall also be entitled to initiate proceedings against the appellants for contempt of Court.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

FEBRUARY 25, 2016

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