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

+ RSA 85/2011 & CM No. 10560/2011 (Stay)

DELHI DEVELOPMENT AUTHORITY

..... Appellant

Through: Mr. Dhanesh Relan, standing counsel
with Ms. Akshita Manocha,
Advocate.

versus

RAJESH GARG

..... Respondent

Through: Mr. Prakash Gautam and Mr. Sandeep
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **19.09.2016**

1. Counsels for the parties were heard at length. During the course of hearing of the appeal, it transpires that both the parties have been less than diligent in leading evidence in support of their cases, and therefore, this is a case which is *like a cat on the wall* and dealing of the appeal on merits with the evidence which is on record may ultimately end up prejudicing either of the parties.

2. In view of the above, it is agreed that the impugned judgments of the courts below be set aside and both the parties will now be given

opportunities to prove their respective cases as regards whether or not the respondent/plaintiff is the owner and in possession of the suit property. Obviously, each of the parties will lead evidence in support of their respective cases.

3. If the need arises, on the submission or application of the parties, the trial court may also frame additional issues.

4. In view of the above, this appeal is disposed of by setting aside the impugned judgments and allowing the parties to lead evidence, and thereafter the trial court will dispose of the suit in accordance with law. This order is passed in exercise of powers under Order 41 Rule 27 CPC read with Section 165 of the Evidence Act to do justice to both parties.

5. Parties to appear before the District and Sessions Judge, Rohini Courts (North West), Delhi on 24th October, 2016 and the District and Sessions Judge will mark the suit for disposal to a competent court in accordance with law and the observations made in the present order.

6. The interim injunction order dated 17.11.1999 passed by the trial court will continue with the observations that the respondent/plaintiff

will maintain status quo with respect to possession, title and construction with respect to the suit property.

VALMIKI J. MEHTA, J

SEPTEMBER 19, 2016
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