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

+ RSA 304/2016 & CM No. 37794/16(for condonation of delay of 195 days)

LALITA Appellant
Through: Mr. Jawahar Chawla, Adv.

versus

SUMAN VERMA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **25.10.2016**

1. Trial court vide its order dated 22.3.2013 dismissed the suit by dismissing an application under Order 22 Rule 3 CPC because as per the trial court tenancy was a residential tenancy covered under Section 2(l) of the Delhi Rent Control Act, 1958. The first appellate court has set aside this judgment noting that the tenancy is of a shop and therefore a commercial premises and hence tenancy is inheritable like any other property in view of the judgment of the Supreme Court in the case of ***Gyan Devi Anand Vs. Jeevan Kumar AIR 1985 SC 796***. The first appellate court has only therefore remanded the matter for decision of the suit in accordance with law taking the tenancy as a commercial tenancy, and therefore, all aspects as

per the pleadings of the parties will be decided in the suit taking the tenancy of the suit premises as commercial tenancy.

2. At this stage, counsel for the appellant states that since all issues as per the pleadings of the parties are left open to be decided by the trial court in the suit, this appeal is not pressed because the impugned judgment of the first appellate court only declares the tenancy of the suit premises as a commercial tenancy.

3. The appeal is accordingly disposed of as not pressed with the aforesaid observations.

VALMIKI J. MEHTA, J

OCTOBER 25, 2016

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