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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 195/2016, IAs No.5200/2016 (u/O 39 R-1&2 CPC) &
15272/2016 (for condonation of 25 days delay in filing the written
statement)

SMT SUDHA RANI & ANR Plaintiffs

Through: Mr. J.K. Bhola, Adv.

Versus

M/S VASAN HEALTH CARE PVT LTD Defendant

Through: Mr. Manish Kumar & Mr. Bipin
Rakesh, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **09.12.2016**

1. The two plaintiffs viz. Smt. Sudha Rani & Smt. Anju Goel, claiming to be landlords, have instituted this suit i) for recovery of possession of property No.F-14, Preet Vihar, Vikas Marg, Opposite Metro Station, Delhi-110 092 let out by them to the defendant Vasan Health Care Pvt. Ltd. (VHCPL) on the ground of having determined the tenancy of the defendant VHCPL for default of payment of rent; and ii) for recovery of arrears of rent, *mesne* profits, electricity and water charges and amount deducted towards tax at source.

2. The suit was entertained and summons thereof issued and vide *ex parte* ad-interim order dated 29th April, 2016, the defendant restrained from transferring possession of the aforesaid premises or from creating any third party rights therein.

3. The counsel for the defendant appeared before the Joint Registrar on 27th July, 2016 and thereafter on 18th October, 2016; though written statement was reported to have been filed by the defendant, but the same

was lying under objection.

4. IA No.15272/2016 has been filed by the defendant for condonation of 25 days delay in filing of the written statement.

5. The counsel for the plaintiff states that the defendant is unable to pay rent and a decree for ejectment has summarily been passed against the defendant on 16th November, 2016 in CS(OS) No.3402/2015 titled ***Ashok Arora Vs. Vasan Health Care Pvt. Ltd.*** with respect to the another premises in the tenancy of the defendant at Janakpuri, New Delhi. A copy of the said order is handed over in the Court.

6. It is *inter alia* the case of the plaintiffs in the plaint in the present suit i) that the two plaintiffs are owners holding 50% share each of property No. F-14, Preet Vihar, Vikas Marg, Opposite Metro Station, Delhi-110 092, ad-measuring 570 sq. yds. and comprising of ground, first, second and part top floor with basement for parking along with right to use common areas and car parking space; ii) that vide registered lease deed dated 4th April, 2012 the said entire property was let out by the plaintiffs to the defendant with effect from 15th March, 2012 for a period of nine years ending on 14th March, 2021 at a rent of Rs.10,25,000/- per month to be increased by 15% every three years and on other terms and conditions as contained in the registered lease deed; iii) that the defendant within a short time of letting started defaulting in payment of rent as agreed; iv) that a sum of Rs.1,44,10,588/- is due from the defendant towards arrears of rent till 29th February, 2016; and, v) that though the defendant had been deducting from the rent paid, tax at source, but has not furnished certificates of deduction of tax and a sum of Rs.24,29,075/- is due from the defendant on the said account.

7. A perusal of the written statement of the defendant shows the defendant to have not controverted the aforesaid material pleas in the plaint. The defendant of course has pleaded the circumstance of raid by the income tax department for non-payment of rent but which is not relevant for adjudication of the matter in controversy.

8. I have satisfied myself that the registered lease deed between the parties in Clause '8a' thereof provides as under:

“8a. It is hereby agreed between the Parties that the Lessor shall have the right to terminate this Agreement during the entire Term only in the event if the Lessee fails to pay the Lease Rent for the Demised Premises in accordance with the terms and conditions of this Agreement for a consecutive period of 2 (two) months, and fails to rectify the same within 30 days of the written notice from the Lessor, except if the non-payment by the Lessee is on account of breach committed by the Lessor. In such case the Lessor will have the right to terminate this lease and seek possession of the Demised Premises subject to simultaneous refund of the security deposit to the Lessee upon such termination.”

9. I have also satisfied myself that there is no dispute of the defendant having failed to pay the lease rent for a consecutive period of two months and having failed to rectify the same within 30 days of written notices dated 8th May, 2015 and 16th June, 2015 served by the plaintiffs on the defendant.

10. The written statement of the defendant shows that the parties are not at issue on any question of law or of fact.

11. This Court is thus entitled under Order XV Rule 1 of the CPC to pronounce judgment forthwith.

12. The delay of 25 days in filing the written statement is thus condoned

and the written statement is taken on record.

13. A decree is passed in favour of the plaintiffs and against the defendant (i) for recovery of possession of property No.F-14, Preet Vihar, Vikas Marg, Opposite Metro Station, Delhi-110 092; ii) for recovery of Rs.1,44,10,588; iii) for recovery of *mesne* profits / damages for use and occupation at the rate of Rs.11,78,750/- per month with effect from 1st March, 2016 till the date of ejectment; iv) for recovery of Rs.24,29,075/- on account of tax deducted at source and service tax; v) for mandatory injunction commanding the defendant and its Directors to clear the electricity and water charges of the premises for the period of its occupation therefrom; vi) the plaintiffs / decree-holders shall also be entitled to interest on the aforesaid decreed amounts with effect from today and till the date of payment at the rate of 10% per annum; vii) the plaintiffs / decree-holders shall also be entitled to costs of the suit.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

DECEMBER 09, 2016

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