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

+ **FAO 399/2016**

SANJAY KUMAR

+ **FAO 368/2016**

AMIT KUMAR

..... Appellants

Through: Ms. Gita Dhingra, Advocate

Versus

VIJAY MAGGU & ORS.

..... Respondents

Through: Mr. Ravi Gupta, Senior Advocate,
with Mr. Akhil Sachar &
Mr. Raghav Vashishtha, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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28.09.2016

In the above captioned two appeals, challenge is to the impugned order of 9th May, 2016, vide which appellants' application under Order 39 Rule 10 CPC has been dismissed by observing that there is no clear demand on the part of respondent-plaintiff qua the outstanding rent.

With the consent of learned counsel for the parties, both these appeals have been heard together and are being disposed of by this common order.

On behalf of respondents, it is submitted that Power of Attorney/*Vakalatnama* shall be filed during the course of the day.

Learned counsel for the parties fairly states that there is no dispute about rate of rent and the charges, if any, paid by respondents to the

Municipal Authority, would be adjusted in the rent due from January, 2013 and thereafter, whatever is the outstanding rent, the same would be paid to appellants. It is also not in dispute that any amount paid by respondents to appellants towards the rent during the period from January, 2013 upto date, would be also adjusted.

In view of stand taken as aforesaid, the impugned order is set aside and appellants' application under Order 39 Rule 10 CPC in the above captioned two appeals are allowed in the aforesaid terms. Learned Senior Advocate appearing on behalf of respondents, on instructions from Mr. Akhil Sachar undertakes that arrears, if any, shall be paid by respondents to appellants before the trial court on the date fixed i.e. on 19th October, 2016.

Both the appeals are accordingly disposed of in aforesaid terms.

(SUNIL GAUR)
JUDGE

SEPTEMBER 28, 2016

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