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

+ CM(M) 807/2016

IKRAM

..... Petitioner

Through Mr.Sarfaraz Hussain, Advocate with
petitioner-in-person.

versus

ARIF

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **23.08.2016**

CM Nos. 30551/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 807/2016 and CM No. 30550/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 06.05.2016. The petitioner/judgment debtor had moved an application under Order 47 read with Order 21 Rule 21 CPC for dismissal of execution and setting aside the order dated 23.03.2016.

2. There were certain earlier litigation pending between the parties. The parties entered into a compromise dated 28.08.2014 whereby the petitioner undertook that he would vacate the premises No. S-153/122, Ground Floor, First Pulia near MCD School Abul Fazal Enclave Part-1, Jamia Nagar, Okhla, Delhi on or before 15.03.2015. It was agreed that he would pay the rent @ Rs. 6,600/- per month apart from electricity charges. Despite the said settlement and despite lapse of the period/date 15.03.2015, the petitioner has not vacated the premise in question.

3. By the present application which was now moved before the executing court, a plea was taken that on 15.03.2015 i.e. the date on which he had to vacate the premises, the decree holder inducted the petitioner/judgment debtor by a fresh tenancy @ Rs.6,600/- per month excluding electricity charges. The petitioner stated that he has been paying the agreed rent to the decree holder regularly after 15.03.2015. Accordingly, it was urged that as a fresh tenancy has commenced w.e.f. 15.03.2015 by the consent of the parties, the execution petition is not maintainable.

4. The trial court dismissed the application holding that there are no basis to conclude that any new tenancy has been created as claimed by the petitioner. Keeping in view the facts and circumstances of the case, the trial court concluded that the petitioner is only seeking to resist execution of the warrants.

5. In my opinion, there is no merit in the present petition. In view of the clear undertaking given to the court to vacate the premises by 15.03.2015, the petitioner has chosen to come up with an ingenious contention to claim that a fresh tenancy has been created by the parties from 15.03.2015. This is obviously an attempt to defeat the said undertaking and to somehow retain the possession of the suit premises.

6. The petition is accordingly dismissed.

JAYANT NATH, J

AUGUST 23, 2016

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