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

+ CM(M) 878/2016

RAJINDER KUMAR

..... Petitioner

Through: Mr. Shailendra Babbar, Advocate.

versus

MOHD BASHIR & ORS

..... Respondents

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **06.09.2016**

C.M. No.32598/2016 (for exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM (M) No.878/2016 & C.M. No.32597/2016 (for stay)

In view of the orders passed by this court in CM (M) No.867/2016 titled *Rajinder Kumar vs. Bhanu Pratap Pandey & Ors.* dated 5.9.2016, the present petition stands disposed of. Same directions are to be followed in the present petition.

The relevant directions in the said order dated 05.09.2016 read as follows:-

“4. Learned counsel appearing for the petitioner submits that the appellate court has wrongly without in any manner discussing the prima facie findings recorded by the trial court concluded that respondent No.1 is in possession of the suit property and has set aside the order of the trial court directing installation of a fresh electricity metre at the premises. He points out that the only basis for holding that respondent No. 1 is in said possession is a submission recorded of the learned

counsel for the petitioner which is noted in para 12 that respondent No. 1 is a trespasser. Based on that alleged assertion, it is submitted that the appellate court concluded that respondent No. 1 is in possession and that even a trespasser if in settled possession is entitled to certain rights. He submits that no such submission was made by the counsel for the petitioner that respondent No. 1 is a trespasser. In fact, in para 8 of the impugned order the submission of the learned counsel for the petitioner was noted that respondent No. 1 is not in possession of the suit property. It was all along the stand of the petitioner that respondent No.1 was never in possession of the suit property.

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6. In view of the discrepancies noted in para 8 and 12 of the impugned order in recording the submission of the learned counsel for the petitioner, it is appropriate that the petitioner may file a review petition before the appellate court pointing out the said contention of the petitioner. Accordingly, permitting the petitioner to file a review within two weeks from today to agitate the above contentions before the appellate court, the present petition is disposed of.

7. In case the review petition is filed within two weeks from today, the appellate court may hear the same as per law and dispose of the same expeditiously preferably within four months from today.

8. Till the disposal of the review petition, in case the same is filed within two weeks from today, there shall be stay of the impugned order.”

The pending application also stands disposed of.

JAYANT NATH, J.

SEPTEMBER 06, 2016/‘AA’