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

+ RSA 160/2015

OM PRAKASH

Through Dr.Ashwani Bhardwaj, Adv. Appellant

versus

SHARDA DEVI

Through None. Respondent

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **08.01.2020**

CM No.239/2020 (early hearing)

For the reasons stated in the application, the same is allowed. The review petition is taken up for hearing.

Rev.Pet.461/2019

1. This application has been filed for seeking review of the order dated 18.07.2016 passed by this Court in the above appeal. By the said order, the learned Single Judge of this Court was pleased to record as under:

“2. After arguments, it is agreed after taking instructions from the appellant who is present in person that appellant does not press the appeal but it is agreed on behalf of the respondent/plaintiff that appellant/defendant, can have a time to vacate the suit premises on or before 31.1.2020 of course subject to the appellant/defendant continuing to clear all electricity charges, water charges and other charges for use and occupation of the premises and also filing an undertaking in this Court in terms of the present order within a period of two weeks from today.

3. Accordingly, this appeal is disposed of as not pressed and

appellant is granted time to vacate the premises on or before 31.1.2020 subject to the appellant/defendant filing an undertaking in terms of the present order within a period of two weeks from today.”

2. The review is premised on the judgment dated 07.08.2019 passed by the Supreme Court in Civil Appeal No.7764/2014, titled ***Ravinder Kaur Grewal & Ors. v. Manjit Kaur & Ors.*** The Supreme Court has reiterated the law relating to the adverse possession in the following words:

“59. We hold that a person in possession cannot be ousted by another person except by due procedure of law and once 12 years' period of adverse possession is over, even owner's right to eject him is lost and the possessory owner acquires right, title and interest possessed by the outgoing person/owner as the case may be against whom he has prescribed. In our opinion, consequence is that once the right, title or interest is acquired it can be used as a sword by the plaintiff as well as a shield by the defendant within ken of Article 65 of the Act and any person who has perfected title by way of adverse possession, can file a suit for restoration of possession in case of dispossession. In case of dispossession by another person by taking law in his hand a possessory suit can be maintained under Article 64, even before the ripening of title by way of adverse possession. By perfection of title on extinguishment of the owner's title, a person cannot be remediless. In case he has been dispossessed by the owner after having lost the right by adverse possession, he can be evicted by the plaintiff by taking the plea of adverse possession. Similarly, any other person who might have dispossessed the plaintiff having perfected title by way of adverse possession can also be evicted until and unless such other person has perfected title against such a plaintiff by adverse possession. Similarly, under other Articles also in case of infringement of any of his rights, a plaintiff who has perfected the title by adverse possession, can sue and maintain a suit.”

3. In my opinion, as the order dated 18.07.2016 was passed on the submissions of the appellant itself not to press the appeal but to seek time to vacate the suit premises on or before 31.01.2020, the present review application is without any merit. The same is dismissed.

NAVIN CHAWLA, J

JANUARY 08, 2020/Arya