

\$~22

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

+ **RSA 247/2016**

SUSHIL PURI & ANR Appellants
Through: Mr. Hari Shankar, Advocate with
appellant No. 2 in person.

versus

SUDHA Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **06.09.2016**

C.M. Appl. No.32658/2016 (for exemption)

1. Exemption allowed subject to just exceptions.
2. C.M. stands disposed of.

RSA 247/2016 and C.M. Appl. No. 32657/2016 (for stay, under Section 151 CPC)

1. Counsel for the appellants has been heard on merits.
2. It is seen that the courts below have rightly decreed the suit for possession, inasmuch as, once there exists admittedly a sale deed dated 7.6.2011 executed by Munni Devi in favour of

respondent/plaintiff pursuant to a decree in a suit for specific performance, appellants would obviously be licensees because once appellants have no title in the suit premises they would be gratuitous licensees. It is also noted that the trial court has specifically noted that no challenge was laid to the sale deed dated 7.6.2011 within three years as required under Articles 58 and 59 of the Schedule of the Limitation Act, and therefore merely because now a suit is filed to challenge the sale deed dated 7.6.2011, nothing will turn upon the same.

3. At this stage, counsel for the appellants, on instructions from appellant No. 2 who is the wife of appellant No. 1, states that the appeal is not pressed on merits but the appellants be given two years time to vacate the suit premises, inasmuch as, appellant No. 1 is a paralysed person.

4. Accordingly, let the appellants file an affidavit of undertaking in this Court to vacate the suit premises on or before 31.8.2018 and also to pay mesne profits/damages as would be determined by the trial court, subject of course to finality of that judgment by exercising any right of challenge to that judgment. Appellants will also clear all

electricity charges and water charges with respect to the suit premises till the appellants stay in the possession of the same.

5. Upon the appellants filing an affidavit of undertaking within two weeks in terms of this order, and complying with the same, appellants will not be evicted from the suit premises in execution of impugned judgments and decrees dated 1.6.2016 and 15.1.2016 till 31.8.2018.

6. The appeal is accordingly disposed of as not pressed by granting time to the appellants to vacate the suit premises on or before 31.8.2018, subject of course to filing and complying with affidavit of undertaking as stated above.

7. The appeal is disposed of in the above terms.

VALMIKI J. MEHTA, J

SEPTEMBER 06, 2016

AK