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

+ RSA 332/2016

PRASHAN SINGH & ORS

..... Appellants

Through: Mr. D.K. Sharma, Advocate.

versus

YMCA NEW DELHI

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **07.11.2016**

C.M. No.41326/2016 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

C.M. No.41327/2016 (for condonation of delay of 14 days in re-filing)

2. For the reasons stated in the application, delay of 14 days in re-filing the appeal is condoned.

C.M. stands disposed of.

+ RSA No.332/2016 and C.M. No.41325/2016 (stay)

3. Learned counsel for the appellants argues with respect to dismissal of the suit of the respondent/plaintiff for possession on the ground

of adverse possession of the appellants, tenancy of the appellants and respondent/plaintiff not being the owner.

2. So far as adverse possession is concerned, not a single document has been filed with respect to the claim of adverse possession and thus it has been held by the courts below to be not proved with the fact that plea of tenancy is mutually destructive with the plea of ownership, and which plea of tenancy was also not proved by a single document. Respondent/plaintiff has a registered lease deed in its favour and only its name had changed, and therefore, even the ownership of the suit premises cannot be denied.

3. At this stage, counsel for the appellants states that appeal is not pressed on merits but appellants be granted time till 30.4.2017 to vacate the suit premises as the children of the appellants are said to be studying and the academic year will finish by 31.3.2017.

4. Accordingly, while disposing of this appeal as not pressed, appellants are granted time to vacate the suit premises on or before 30.4.2017 subject to the appellants filing an undertaking in this Court within two weeks to hand over actual vacant physical possession of the suit

premises to the respondent/plaintiff and for the period of possession to pay all charges for electricity, water etc. Subject to the appellants filing affidavits of undertakings in terms of the present order and complying with the terms of the same, appellants are granted time to vacate the suit premises on or before 30.4.2017.

5. Appeal is disposed of in terms of aforesaid observations.
6. Dasti to the counsel for the appellants.

VALMIKI J. MEHTA, J

NOVEMBER 07, 2016

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