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

+ **RSA 299/2016**

GANPATI MISHRA

..... Appellant

Through: Mr. Sanjiv Joshi, Advocate.

versus

KAMLESH SHARMA

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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04.10.2016

RSA No. 299/2016, CM No. 37028/2016 (stay) & CM No. 37029/2016 (exemption)

1. After arguments, counsel for the appellant states that this second appeal is not pressed against the concurrent judgments of the courts below decreeing the suit of the respondent/plaintiff/landlady for possession against the appellant/tenant.

2. It is seen that appellant/defendant has admitted the relationship of landlord and tenant, the suit premises being outside the protection of Delhi Rent Control Act, 1958 as the rent was Rs.25,000/- per month, and the receipt of legal notice by which tenancy was terminated. Therefore, the suit

was rightly decreed under Order 12 Rule 6 CPC. Assuming that Rs.6 lacs were incurred by the appellant/defendant for renovation, the same will not give a right as if the same is under a registered lease deed for an unlimited period of time to stay for the appellant in the suit premises as a tenant.

3. Counsel for the appellant only prays for time to vacate the suit premises and in the facts of the present case, it is apposite that the appellant/defendant is granted time till 31.3.2017 to vacate the suit premises subject of course to the appellant/defendant clearing all arrears by paying admitted rent at Rs.25,000/- per month till date, if any within one month and thereafter continuing to pay admitted rent till the appellant/defendant continues to remain in possession of the suit premises. Appellant/defendant will also clear all charges towards the local bodies such as electricity charges, water charges etc till the time the appellant/defendant remains in possession of the suit premises. Of course, the issue with respect to what is the final use and occupation charges which would be payable by the appellant with respect to the suit premises till vacation, will be as per the trial on the issue of mesne profits which is going on before the trial court.

4. Let the appellant file within two weeks an affidavit of undertaking in terms of the present order and on the appellant filing the undertaking and complying with the terms of the same, appellant will not be evicted from the suit premises till 31.3.2017.

5. This Regular Second Appeal and all pending applications are accordingly disposed of.

VALMIKI J. MEHTA, J

OCTOBER 04, 2016

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