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

+ RFA 930/2016 and CM APPL. 44288-91/2016

ASHU KHAN

..... Appellant

Through: Mr. Shahid Ali, Advocate with

Mr. Anwar Khalil and Mr. Umar Daraz, Advocates

versus

RAMPHAL TYAGI (SINCE DECEASED) THR HIS LRS

..... Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **30.11.2016**

1. The appellant/defendant is aggrieved by the judgment and decree dated 02.07.2014 passed in a suit for possession, damages and mesne profits instituted by the respondents/plaintiffs in respect of a shop measuring 85 sq. yards situated on the ground floor of property bearing No.349/2, Main Road, Burari, Delhi.

2. Under the impugned judgment and decree, the trial court has held that the respondents/plaintiffs are entitled to the relief of possession of the suit premises and had granted the appellant/defendant a period of six months to hand over the vacant possession thereof to the respondents/plaintiffs. Further, the appellant/defendant has been directed to pay arrears of rent @ Rs.3,400/- per month to the respondents/plaintiffs from September, 2010 to April, 2011, within a period of two months. In case of default, interest @ 12% per annum has been directed to be paid by the appellant, alongwith the principal amount.

3. In the course of arguments, the Court has expressed an opinion that there does not appear any illegality, infirmity or mis-appreciation of evidence by the trial court, which deserves interference in appeal. Further, it has been enquired from learned counsel for the appellant if his client would be ready and willing to vacate the suit premises if granted a reasonable time, subject to his depositing in Court, the money decree. The case was passed over to enable the counsel for the appellant to obtain instructions from his client.

4. On the second call, counsel for the appellant states that he has received instructions that the appellant does not wish to press the present appeal and instead, seeks a reasonable time to vacate the subject shop from where he is running an automobile repair shop. He states that to his knowledge, the appellant has already deposited the decretal amount in the trial court and proof thereof shall be furnished on the next date of hearing.

5. In view of the submission made by the counsel for the appellant, as above, the present appeal is disposed of along with the pending applications and a limited notice is issued to the respondents only in respect of the timeline prayed for by the appellant to vacate the suit premises, by ordinary process, speed post and *dasti* as well, returnable on 19.12.2016.

6. The notices to be issued to the respondents shall indicate that any one of the respondents authorised to take a decision on behalf of the rest of the respondents shall remain present on the next date of hearing. The appellant shall also remain present.

HIMA KOHLI, J

NOVEMBER 30, 2016/rkb

RFA 338/2015

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