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

+ CS(OS) 1836/2015

SUSHIL KUMAR GUPTA

..... Plaintiff

Through: Mr. Suryakant Singla, Advocate

versus

VEER PAL SINGH

..... Defendant

Through: Mr. O.P.Bharati, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

26.02.2016

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The defendant is present in Court with his counsel. During the course of submissions, it has transpired that the defendant has resorted to making blatantly false statements in his written statement, which is supported by his affidavit. In his written statement, the defendant has verified the contents of para 1 to 13 of the written statement on merits, and paras 4 to 8, 10, 11 and 14 to 20 of the preliminary objections as true to his knowledge. The written statement is supported by his affidavit wherein he has, inter alia, stated that he has understood the contents of his written statement which have been explained in vernacular. He has stated that the written statement has been drafted by his counsel under his instructions. The written statement has been made a part and parcel of the affidavit sworn by the defendant on 21.11.2015.

The defendant had earlier preferred a civil suit being Civil Suit No. 47/2012 wherein the present plaintiff was impleaded as defendant No. 1 and the father of defendant No. 1-Om Prakash herein was defendant No. 4. The averment made by defendant No. 1 herein in the said suit filed by him was that his father-Om Prakash was let out the suit property by late Shri Hanuman Prasad in the year 1965 on a monthly rent of Rs. 6/- and 4 *annas*. He stated that his father-Om Prakash took the property on rent as *Karta* of his family. He further stated that his father-Om Prakash had suffered a paralytic attack about 3 years back and that he had completely lost his memory and speech. In that suit (Civil Suit No. 47/2012) filed in the court of Civil Judge, Tis Hazari Courts, Delhi, the father of defendant No. 1 herein, Om Prakash, filed his written statement wherein the stand taken by him was that he was not a tenant but that he was a trespasser and in adverse possession of the suit property since 26.01.1965. The stand taken by the plaintiff herein who was defendant No. 1 in the said suit was that Om Prakash was merely permitted to sleep in the suit property in the night for no consideration and thus merely a limited license was created in his favour.

The defendant No.1 herein then filed his replication to the written statement of his own father-Om Prakash wherein he again asserted the existence of the tenancy in favour of his father Om Prakash. The suit bearing No. Civil Suit No. 47/2012 was abandoned by defendant No. 1 and the same came to be dismissed. The plaintiff has, consequently, filed the present suit against the defendant. In his written statement, the defendant has now taken the stand that his late father Om Prakash was in long, old, continued, uninterrupted, uninterfered, hostile and adverse possession since 26.01.1965. He has, therefore, given up his plea of his father Om Prakash

being a tenant in the suit premises at the rate of Rs. 6/- and 4 *annas* under Shri Hanuman Prasad. The stand now taken by the defendant is thus completely contrary to the stand taken earlier by him as aforesaid and it is patently and knowingly false to his own knowledge.

Keeping in view of the aforesaid position, the Court had directed the defendant to remain personally present in Court today and, accordingly, he is so present.

On the aforesaid aspects being confronted, he states that he is ready and willing to suffer a decree in terms of prayer (a) and (b). He prays that he may be granted six months time to vacate the suit premises.

Accordingly, his statement has separately been recorded and the suit is decreed in terms of prayers (a) and (b) as made in the plaint.

Since the defendant has suffered the said decree, counsel for the plaintiff, on instructions, states that the plaintiff does not press for other reliefs in the suit. The suit is, accordingly, decreed in terms of prayer (a) and (b). The defendant shall, in compliance with his undertaking, which is accepted by the Court, deliver the peaceful vacant possession of the suit property to the plaintiff within six months from today i.e. on or before 26.08.2016 and during this period, the defendant shall not create any third party interest in respect of the suit property or to part with his possession to any other person.

VIPIN SANGHI, J

FEBRUARY 26, 2016

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