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

+ **RFA 972/2016**

MANOJAAY DABRAL

..... Appellant

Through: Mr. N.K. Verma, Advocate with
appellant in person.

versus

RAVI DABRAL

..... Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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14.12.2016

CM APPL. 46025/2016 (exemption)

Subject to the appellant filing the certified/typed/legible copies of the documents annexed with the appeal within four weeks, the application is allowed and disposed of.

RFA 972/2016 and CM APPL. 46023/2016 (stay), CM APPL. 46024/2016 (for condonation of delay of 4 days in filing the appeal)

1. The appellant/defendant has filed the present appeal against the judgment and decree dated 16.08.2016 in a suit for possession, damages, *mesne* profits and injunction instituted against him by his brother, the respondent/plaintiff in respect of flat bearing No.772, Pocket-V, Mayur Vihar, New Delhi.

2. Under the impugned judgment and decree, the learned ADJ has granted the relief of possession in favour of the respondent/plaintiff and

directed the appellant/defendant to hand over vacant peaceful possession of the subject flat within three months. Further, *mesne* profits have been granted in favour of the respondent/plaintiff to the tune of Rs.5,000/- per month with effect from the date of institution of the suit, i.e., 30.10.2010, till handing over possession of the flat in question. Lastly, a decree of perpetual injunction has been passed against the appellant/defendant.

3. Counsel for the appellant has addressed arguments for some time. In the course of arguments, the Court has expressed an opinion that there does not appear any illegality, infirmity or mis-appreciation of evidence for interference in appeal. Instead, 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 some reasonable time. The matter was passed over to enable learned counsel for the appellant to obtain instructions from his client.

4. On the second call, counsel for the appellant states on instructions that the appellant does not wish to press the appeal on merits and instead requests for some reasonable time to vacate the suit premises and the *mesne* profits awarded against him be waived/reduced, then the appellant is ready and willing to arrive at a settlement with the respondent.

5. While disposing of the present appeal alongwith the pending application, without expressing an opinion on the timeline prayed for by the appellant for vacating the suit premises and the request of waiver/reduction of interest, which shall be considered on the respondent entering appearance, a limited notice is issued to the respondent directly as also through counsel appearing for him in the trial court, on the appellant filing the process fee, by ordinary process and speed post returnable on 04.01.2017.

6. Subject to the appellant maintaining *status quo* with regard to the possession of the suit premises, there shall be stay of the execution till the next date of hearing.

DASTI.

HIMA KOHLI, J

DECEMBER 14, 2016

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