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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 958/2015 & C.M. No.22923/2015

SANJOGTA MALHOTRA & ANR

..... Petitioners

Through Mr. P.N. Dhar, Adv.

versus

SUNIL KUMAR AGGARWAL

..... Respondent

Through Mr. Pankaj Vivek and Ms. A. Singh,
Advts

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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21.03.2016

The petitioners are aggrieved by the order dated 22.09.2015 wherein during the pendency of the appeal, the application filed by the appellant/petitioner under Order XLI Rule 5 of the CPC seeking a say of the execution of the decree stood declined. Learned counsel for the parties candidly point out that part of the decree has been executed and the possession of the suit property as per the decree holder has already been delivered to him. Learned counsel for the parties state that the question which now remains alive is the question of mesne profits/arrears.

Learned counsel for the petitioner submits that the Apex Court in 1983 AWC 121 Mool Chand Yadav & Anr. Vs. Raza Buland Sugar Co. Ltd. Rampur & Others has held that the Appellate Court during the pendency of the appeal should normally suspend the operation of the order as it has serious civil consequences.

Per contra, learned counsel for the decree holder has placed reliance upon the judgment of the Apex Court in (2009) 2 SCC 426 Malwa Strips Private Limited Vs. Jyoti Limited. Submission being that if a money decree has to be stayed, the party shall be directed to deposit the money in the Court. These submission and counter submissions shall be considered by the Trial Court. This Court has been informed that the next date fixed before the Trial Judge is 03.05.2016. Let status quo of the decree be maintained till the next date. The Appellate Court shall endeavour to dispose of the appeal on the date fixed before it i.e. on 03.05.2016 or any other adjourned date.

Petition disposed of.

INDERMEET KAUR, J

MARCH 21, 2016

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