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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 127/2017**

THE VAISH CO-OPERATIVE ADARSH BANK LIMITED

..... Appellant

Through: Mr. Neeraj Jain, Advocate with
Mr. Sunil Dogra, Manager-Legal in person
versus

BRAHM DEV SHARMA

..... Respondent

Through: Mr. B.L. Gupta, Advocate with
respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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09.03.2017

1. On the last date of hearing, while disposing of the present appeal, a limited notice was issued on the aspect of the timeline for the appellant/Bank to vacate the suit premises.
2. Pursuant to the aforesaid order, an officer from the appellant/Bank and the respondent are present today. The matter was passed over for the counsels for the parties to assist their respective clients to negotiate a settlement with each other. On the second call, counsels for the parties state that while the appellant/Bank is seeking extension of time of one and a half year to vacate the suit premises, the respondent is inclined to grant only six months.
3. It may be noted that the impugned judgment on admission was passed on 08.12.2016 on an application filed by the respondent/plaintiff under Order XII Rule 6 CPC, only in respect of possession of the suit premises and

the suit is pending adjudication in the trial court for the relief of damages. It has been enquired from the counsels for the parties if they are willing to negotiate with regard to the damages as well so that a comprehensive settlement can be arrived at.

4. Counsels for the parties state that they are willing to negotiate a settlement with regard to the claim of damages lodged by the respondent/plaintiff but they would need time to obtain clear instructions from their respective clients. They state that it would be appropriate if they are referred to mediation for the said purpose.

5. Further, the Court is informed that apart from the suit, subject matter of the present appeal, there are six other litigations pending between the parties. Learned counsels jointly request that they may be referred to mediation in respect of the said disputes as well, so that a comprehensive settlement can be reported, if possible.

6. Accordingly, it is deemed appropriate to direct the parties to appear before the Mediator, to be appointed by the Delhi High Court Mediation and Conciliation Centre, on 11.04.2017 at 2.30 PM, for resolving all their inter se disputes, if possible. The parties along with their respective counsels shall appear before the Mediator on the said date. The learned Mediator shall have discussions with the parties and submit a report before the next date of hearing.

7. The issue of quantum of use and occupation charges in respect of the suit premises prior to the date of passing of the impugned judgment, i.e., 08.12.2016, is kept open for resolution through mediation, if possible.

8. As far as the timeline to vacate the suit premises is concerned, the respondent has been persuaded to grant a period of one year to the appellant to vacate the suit premises, which period shall commence on 01.01.2017 and end on 31.12.2017. As for the use and occupation charges for the period effective from the date of pronouncement of judgment i.e., from 09.12.2016 till the date of vacating the same, 31.12.2017, counsels for the parties state that the appellant is presently paying a sum of Rs.17,148/- per month to the respondent, which amount is being adjusted in his loan account. It is submitted that the appellant is willing to pay a sum of Rs.30,000/- per month to the respondent towards use and occupation charges with effect from 09.12.2016 till 31.12.2017,

9. Counsel for the respondent states on instructions that his client is agreeable to the aforesaid offer, but it is without prejudice to the right of the respondent to claim higher amounts towards damages from the appellant for the earlier period, which is pending adjudication in the trial court.

10. Accordingly, it is directed that the appellant shall pay arrears of the use and occupation charges to the respondent, @ Rs.30,000/- per month with effect from 09.12.2016 till 31.03.2017, after adjusting the amounts already paid. With effect from 01.04.2017, the appellant shall continue paying a sum of Rs.30,000/- to the respondent on a month-to-month basis, on or before the tenth day of each calendar month. The appellant shall hand over vacant peaceful possession of the suit premises to the respondent on or before 31.12.2017. At the time of handing over possession, proof of upto date payment of electricity/water charges shall be furnished to the respondent.

11. It is made clear that insofar as the timeline for the appellant to vacate the suit premises is concerned, the same has been finalised as 31.12.2017 and this date is non-negotiable.

12. List in the category of 'Directions' on 13.7.2017 for reporting settlement, if any, in respect of the remaining dispute.

HIMA KOHLI, J

MARCH 09, 2017

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