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

\+ FAO(OS) 102/2016

YASHWANT SINGH ..... Appellant

Through Mr. Mohit Chaudhary, Advocate.

versus

ASHUTOSH VERMA ..... Respondent

Through Mr. Jai Sahai Endlaw and Mr. Ratneshwar Kumar, Advocates for R-1.

Mr. Brijesh Kumar Tamber, Advocate for R-2, Indian Bank.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

<u>O R D E R</u>

% **26.04.2017**

Counsel for the appellant submits that he would be satisfied in case the appellant is permitted to file an appropriate application before the Debt Recovery Tribunal in the OA No.40/2015, filed by the Indian Bank, the second respondent before us. He submits that the appellant has already re-paid the entire loan amount and interest which has accrued thereon and, therefore, the bank has no outstanding claim/demand. The petitioner submits that in these circumstances, the directions given in paragraph 21(f) of the impugned order dated 7th August, 2015, passed in IA No.16872/2014 in CS (OS) No.5/2012 to the effect that the appellant/plaintiff may retain 5%

of the rent received for maintenance and other expenses, subject to maximum of Rs.50,000/- per month can be examined, modified or amended by the Tribunal. Further, the appellant would raise the contention that the rent being deposited with the bank should be kept in a 'no lien account'.

2. CS (OS) No.5/2012 is a suit filed by the appellant for ejectment, cancellation of documents and mesne profit against Ashutosh Verma, the first respondent. Indian Bank has been made a proforma party in this suit in view of the fact that the appellant had taken a loan for construction on the property No. A-24, Kailash Colony, New Delhi and the said property is mortgaged with the bank.

3. The questions relating to the loan, interest and mortgage between the appellant and the bank have to be examined and decided by the Debt Recovery Tribunal.

4. In these circumstances, we dispose of the present appeal in view of the statement made by the counsel for the appellant. The appellant would be at liberty to file an application before the Tribunal for modification, amendment or vacation of the term imposed in paragraph 21(f) of the order dated 7th August, 2015. The directions/observations in the order dated 7th August, 2015, passed by the single Judge would not come in the way of the

Tribunal passing appropriate orders as it deem necessary and proper. Obviously, the respondent bank will be entitled to contest the said application.

5. Counsel for the appellant submits that he would also like to seek permission lease out the property for more than five years. It is open to the appellant to raise the said plea before the Debt Recovery Tribunal. The respondent bank will be again entitled to make submissions and contest the plea on the said aspect.

6. We hope and trust, if any application is filed by the appellant, the same would be heard and decided expeditiously and as early as possible.

7. The appeal is disposed of, without any order as to costs.

SANJIV KHANNA, J.

ANIL KUMAR CHAWLA, J.

APRIL 26, 2017
NA/VKR