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

+ CM(M) 351/2017

CHANDER BHAN & ORS

Through

..... Petitioners
Mr.Sushil Kumar Singh &
Mr.Shrinkar Chaturvedi, Advocates

versus

PREM SINGH

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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27.03.2017

CM Nos.12095-12096/2017 (exemptions)

Allowed subject to all just exceptions.

CM(M) 351/2017 & CM No.12094/2017 (stay)

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 27.02.2017 by which order the application filed by the petitioners was dismissed.
2. The respondent filed a suit for possession and recovery of damage stating himself to be the owner of the land in question measuring 25 sq.yds. which was let out to the petitioners @ Rs.6.75/- per month.
3. The trial court vide decree dated 29.02.2012 after the evidence was led by the parties, passed a decree in favour of the respondent for possession of the suit property. The respondent has now filed an execution petition.
4. The petitioners filed the present application under Section 47 CPC claiming that after the decree was passed, there has been an oral

settlement/agreement whereby judgement debtor/petitioners have agreed to pay enhanced user charges of Rs.2,000/- per month as rent. It is urged that on account of the said oral settlement/agreement, the decree holder/respondent did not approach the court for execution of the decree. Hence, it is urged that on account of the compromise/agreement between the parties, the court cannot evict the petitioners.

5. I have heard the learned counsel for the petitioners. The learned counsel for the petitioners submits that the respondent has abandoned the decree in view of the settlement/agreement and he is entitled to protection in terms of the new settlement/agreement.

6. A perusal of the reply filed by the respondent to the application under Section 47 CPC filed by the petitioners would show that the respondent has denied any such settlement/agreement took place between the petitioners and the respondent. It is a bald submission of the petitioners that an oral settlement/agreement has been arrived at between the parties which gives a go by to the decree. There is not a shred of evidence to show that any such settlement/agreement was arrived at between the parties. The application is nothing but an abuse of process of court and has been rightly dismissed by the trial court.

7. There is no merit in the present petition and the same is dismissed.

JAYANT NATH, J.

MARCH 27, 2017/v