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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 905/2016 & C.M. No. 43318/2016**

SANTOSH KUMARI Appellant

Through: Mr. M.B. Harikant and
Mr. Basant Kumar Gutam, Advocates with
appellant in person.

versus

PREMWATI Respondent

Through: None.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
06.01.2017

1. The appellant/defendant is aggrieved by the judgment dated 17.8.2016 pronounced by the learned Trial Court in a suit for recovery of possession, damages and permanent injunction instituted against her by her mother in respect of a residential premises. Under the impugned judgment and decree, a decree for recovery of possession was passed against the appellant/defendant and she was directed to pay her mother, use and occupation charges in respect of the suit premises @ Rs.4,000/- per month along with interest @ 12% per annum from the date of institution of the suit till its realization.

2. On the last date of hearing, learned counsel for the appellant was directed to file a copy of the plaint in an earlier suit instituted by the appellant and her husband against her father(husband of the respondent/plaintiff), as referred to in para 13 in the impugned judgment dated 17.8.2016. The said document has been filed by the learned counsel for the appellant and perused.

3. Para 6 of the plaint in the suit for permanent injunction instituted by

the appellant and her husband in respect of the suit premises in the year 2014, refers to her father namely, Sh.Naresh Kumar Sharma as the seller. The observation of the learned Trial Court in para 14 of the impugned judgment to the effect that when the husband of the respondent/plaintiff(father of the appellant) was the owner of the suit premises in the year 2014, when a suit was instituted by her, then how could her husband claim to be the owner of the suit property in the year 1997, as has been alleged in her written statement, is therefore significant and demolishes her entire defence.

4. After hearing learned counsel for the appellant for some time, this court had expressed a view that there does not appear any illegality, perversity or mis-appreciation of facts in the impugned judgment that would deserve interference. It was also enquired from him if the appellant would be inclined to seek a reasonable time to vacate the suit premises. The matter was passed over for learned counsel for the appellant to obtain instructions from his client. On pass over, learned counsel for the appellant states that he has instructions not to press the present appeal. However, the appellant proposes to seek her remedy in respect of the suit premises, as may be available in law.

5. The appeal is accordingly disposed of, along with the pending application. The appellant is at liberty to seek her remedies, if any, in respect of the suit premises, as may be permissible in law.

HIMA KOHLI, J

JANUARY 06, 2017

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