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

+ **CONT.CAS(C) 504/2017 & CM APPL. 25805/2017 (exemption)**

RAHUL SHIVAM

..... Petitioner

Through Mr. P. N. Parashar and Ms. Shivani
Lakhanpal, Advs.

versus

MEERA GUPTA

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **24.07.2017**

Petitioner alleges that the respondent has violated the order dated 26.09.2016 and failed to vacate the premises by 30.06.2017. Order dated 26.09.2016 is, as under:-

1. After arguments, this second appeal is disposed of in terms of the following consent order:-
 - (i) The suit of the appellant/plaintiff with respect to suit premises being ground floor flat of property no. RZ/11A, New Uttam Nagar, New Delhi is decreed for possession in favour of the appellant/plaintiff and against the respondent/defendant. The suit premises will be as per the site plan Ex.P1/D1.
 - (ii) The respondent/defendant is granted time to vacate the suit premises on or before 30.06.2017 subject to the respondent/defendant paying use and occupation charges at Rs.5,000/- per month by the 30th of every calendar and tenancy month w.e.f. 01.09.2016 till the time the respondent/defendant vacates the suit premises.
 - (iii) Respondent/defendant will ensure that any charge with respect to the suit premises at the admitted rate of rent at Rs.2200/- per month is cleared till August 2016 positively within one month from today if there are any

arrears payable till August, 2016.

- (iv) Respondent/defendant will file an affidavit of undertaking in this court in terms of the present order within two weeks and upon the respondent/defendant filling the affidavit of undertaking and complying with the same, respondent/defendant will be allowed to stay in the premises till 30.06.2017.**

- 2. Appeal is accordingly disposed of in terms of aforesaid consent order, leaving the parties to bear their own costs.**

A plain reading of the abovesaid order shows that the respondent was bound by the consent on his furnishing an affidavit of undertaking within two weeks and thereupon only, the respondent was allowed to stay in the premises till 30.06.2017. On being queried, ld. counsel for the petitioner states that no affidavit of undertaking in terms of the sub-clause (iv) of the abovesaid order has ever been furnished by the respondent. On his own part, the petitioner is not said to have taken any steps and let the things go. As per sub-clause (i), decree for possession has come to be passed in his favour. Petitioner was and is at liberty to file execution to seek possession and recover the outstanding dues. Contempt petition in the given facts and circumstances, cannot be entertained, especially, in view of the fact that no undertaking ever came to be furnished by the respondent.

Dismissed.

A. K. CHAWLA, J

JULY 24, 2017

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