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

+ RFA 86/2017

M/S TANIMA INTERNATIONAL Appellant
Through: Mr. Raj Kumar Rajput, Advocate with
Mr. Akash Gupta, proprietor of the appellant in
person.

versus

SUBHASH ARORA & ANR Respondents
Through: Mr. Mohit Chaudhary and
Mr. Kunal Sachdeva, Advocates with
Mr. Ankur Arora (son of the R-1 and R-2).

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
% **14.02.2017**

1. This order is in continuation of the order dated 24.1.2017, on which date, while disposing of the appeal, a limited notice was issued to the respondents to enable the appellant to negotiate a settlement with them for retaining the suit premises for a period of 5-6 months.

2. Pursuant to the aforesaid order, counsel for the respondents enters appearance and states that the impugned judgment on admission has been passed by the trial court under Order XII Rule 6 CPC and the suit for the remaining relief of arrears of rent and use and occupation charges in respect of the suit premises is still pending in the trial court. He submits that in the written statement filed in the suit, the appellant/defendant has admitted that

as on 02.2.2015, the arrears of rent were to the tune of Rs.5,06,080/-. He submits that as on date, the arrears of rent calculated @ Rs.2,50,000/- per month, have mounted to Rs.92,50,000/-. He suggests that the entire dispute between the parties can be settled if the appellant pays the said amount and in those circumstances, the respondents are willing to waive off the interest payable on the outstanding amount on the condition that the use and occupation charges with effect from the date of passing of the impugned judgment i.e. from 05.11.2016, may be continued to be paid on a month-to-month basis, till the appellant vacates the suit premises on or before 30.7.2017.

3. Counsel for the appellant states on instructions that the appellant is unwilling to pay the arrears of the use and occupation charges in respect of the suit premises, and is not in a position to pay any amount for the extended period of 5-6 months. Instead, he states that a counter claim for a sum of Rs.22 lakhs (approx.) has been filed by the appellant/defendant in the suit instituted by the respondents/plaintiffs, which is also pending adjudication.

4. It has been suggested to the appellant that the amount, subject matter of the counter claim may be deducted from the admitted amount towards use and occupation charges to the tune of Rs.92,50,000/- and the balance amount be tendered to the other side to bring a closure to the dispute between the parties. The said suggestion is also unacceptable to the appellant.

5. Instead, counsel for the appellant states on instructions that as the appeal has already been disposed of as not pressed, and his client is not in a

position to pay any amount to the respondents for retaining the suit premises for 5-6 months, his client shall vacate the same by 31.3.2017.

6. Counsel for the respondents states that having regard to the conduct of the appellant, he is not in a position to give any such assurance particularly, when they are not willing to pay a penny towards the use and occupation charge in respect of the suit premises even from the date of passing of the impugned judgment and decree, till the date of vacating the same.

7. In such circumstances, no settlement can be arrived at between the parties. The respondents are at liberty to seek execution of the impugned judgment and decree, in accordance with law.

8. File be consigned to record room.

HIMA KOHLI, J

FEBRUARY 14, 2017

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