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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 429/2017 & CM No.33807/2017 (for stay)
OM PRAKASH JAIN Petitioner

Through: Mr. Vineet Jain, Adv.

Versus

DINESH KUMAR Respondent

Through: Mr. J.K. Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **12.10.2017**

1. This order is in continuation of the earlier order dated 15th September, 2017.
2. Notice ordered to be issued to the respondent is reported to have been served and the counsel for the respondent appears.
3. The counsel for the petitioner seeks four years time to vacate.
4. The counsel for the respondent opposes, informing the dire need of the petitioner for accommodation.
5. On enquiry, it is informed that the last rent paid by the petitioner to the respondent was at the rate of Rs.2,800/- per month and has been paid till the month of August, 2017.
6. The counsel for the respondent has been prevailed upon to grant of time to the petitioner to vacate the premises till 31st March, 2019, upon the petitioner furnishing usual undertaking to this Court and on other terms as contained therein.
7. The petitioner states that the petitioner is in control and possession of the entire premises from which he has been ordered to be evicted and is in a position to give and comply with the undertaking.

8. The counsel for the petitioner thus withdraws the petition and states that the petitioner shall be bound by the order dated 6th July, 2017 in E No.5445/2016 (Old E No.21/2014) of the Court of Additional Rent Controller (North-West), Rohini Courts, Delhi impugned in this petition.

9. The petitioner as identified by his advocate undertakes to this Court:

- (i) to hand over vacant peaceful physical possession, of the premises from which he has been ordered to be evicted, to the respondent / landlady on or before 31st March, 2019;
- (ii) to immediately clear the arrears of rent for the months of September and October, 2017 at the rate of Rs.2,800/- per month and to from the month of November, 2017 till the month of January, 2018 pay compensation to the respondent for use and occupation of the premises @ of Rs.2,800/- per month;
- (iii) to, with effect from the month of February, 2018 when the order of eviction impugned in this petition would become executable and till 31st December, 2018 pay to the respondent compensation in terms of *Atma Ram Properties (P) Ltd. Vs. Federal Motors Pvt. Ltd.* (2005) 1 SCC 705 at the rate of Rs.5,000/- per month, month by month, in advance for each month, by the 10th day of the month;
- (iv) if the premises are not vacated by 31st December, 2018, to with effect from the month of January, 2019 till the month of vacation of the premises on or before 31st March, 2019 pay to the respondent, compensation at the rate of Rs.7,000/- per

month, month by month, in advance for each month, by the 10th day of the month;

- (v) to clear the electricity and water dues of the premises till the date of occupation thereof, before leaving the premises; and,
- (vi) to hereinafter, not induct any other person into possession of the premises and to not damage the premises.

10. The aforesaid undertakings of the petitioner are accepted and the petitioner/his legal representatives are ordered to be bound therewith.

11. The petitioner has been explained the consequences of breach of undertaking given to this Court.

12. I have otherwise satisfied myself that the order of the ARC impugned in this petition is in accordance with law.

13. The petition is accordingly dismissed as withdrawn; however subject to the petitioner complying with his undertaking aforesaid, the order of eviction is made inexecutable till 31st March, 2019.

14. It is made clear that in the event of the petitioner/his legal representatives being in breach of the undertaking or any part thereof, the respondent, besides initiating proceedings against the petitioner/his legal representatives for breach of undertaking given to the Court, shall also be entitled to forthwith execute the order of eviction.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 12, 2017/‘gsr’..