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

+ RSA 72/2016

BASANTI DEVI

..... Appellant

Through: Mr.C.S.Parashar, Advocate with
appellant in person

versus

JASODA

..... Respondent

Through: Mr.S.P.Aggarwal & Mr.Himanshu
Bohara, Advocates with respondent in
person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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02.02.2017

RSA 72/2016

1. By way of this Regular Second appeal filed under Section 100 CPC, the appellant is impugning the concurrent judgments of the Courts below i.e. of the trial Court dated 25th November, 2014 and of the First Appellate Court dated 23rd July, 2015 whereby the suit for mandatory injunction filed by the respondent/plaintiff have been decreed by directing appellant/defendant to vacate ground floor of the suit property and handover the possession of the same to the respondent/plaintiff within one month. It was also held that respondent/plaintiff is entitled to cost of the suit and damages @ ₹ 150/- per day w.e.f. 01.07.2012 till the date suit property is vacated.

2. The relationship between the parties is of daughter and mother. The

appellant had admittedly been staying on the ground floor of the suit property along with her husband and family. So far as possession is concerned, it is admitted case of the parties that after the decision of the First Appellate Court the keys of the premises have been delivered to the respondent by the Court as the key was lying deposited in the Court.

3. The only issue on which the parties are litigating as on date, is on the question of damages.

4. Today, the respondent/mother, who is present alongwith her counsel, has placed on record her handwritten request bearing her signature as well as thumb impression to the effect that she (respondent) does not want to accept any money from the appellant, who is her daughter, towards damages/user and occupation charges. It is also recorded that the respondent does not want to continue the execution petition No.2210/2015 pending before the learned Civil Judge, Tis Hazar Courts, Delhi.

5. It is submitted by the learned counsel for the respondent that respondent does not want to accept the cost of ₹20,000/- imposed on the appellant payable to the respondent.

6. In view of the written request made and affection shown by the respondent/mother towards the appellant/daughter, the RSA No.72/2016 stands dismissed as the respondent/mother does not make any claim for the amount awarded to her under the impugned judgment and decree.

7. In the circumstances, the Execution Petition No. 2210/2015 pending before the Court of Civil Judge, Tis Hazari also stands dismissed.

8. No costs.

9. LCR be sent back alongwith copy of this order.

10. A copy of this order be also sent to the concerned Executing Court for information.

11. As prayed, copy of the order be also given dasti to the parties.

CM No.8890/2016

Dismissed as infructuous.

PRATIBHA RANI, J.

FEBRUARY 02, 2017

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