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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **RFA 546/2017 and C.M. Appl. No. 20658/2017 (for stay)**

M/S DIGI CABLE NETWORK (INDIA) PVT LTD & ORS

..... Appellants

Through: Mr. Brajesh Pandey and Ms. Sudha
Rani Saxena, Advocates.

versus

RAKESH SHARMA

..... Respondent

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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24.07.2018

1. By this Regular First Appeal filed under Section 96 Code of Civil Procedure, 1908 (CPC) the defendants in the suit impugn the judgment of the Trial Court dated 28.11.2016 by which the trial court has passed an *ex-parte* judgment against the appellants and decreed the suit for a sum of Rs.5,00,000/- along with interest at the rate of 12% per annum pendente lite and future. Amount claimed in the suit was the lease amount from September, 2011 to January, 2012. Appellants/defendants were admittedly *ex-parte*. The challenge by the appellants to proceeding *ex-parte* against them was withdrawn. *Ex-parte* proceedings against the appellants therefore have become final.

2. Respondent/plaintiff led evidence and proved the factum with

respect to the lease being entered into between the parties, appellants having paid a sum of Rs.4,00,000/- as security deposit and serving of legal notice dated 20.1.2012 and the reply of the appellants/defendants dated 25.1.2012. Trial court has thereafter decreed the suit as there is no cross-examination of the plaintiff and therefore there is no reason to disbelieve the testimony of the plaintiff of lease being created, more so, when a sum of Rs.4,00,000/- was admittedly paid by the appellants as security under the Lease Deed.

3. The Lease Deed was with respect to an area in the premises C-139, Gali No. 11, Kanti Nagar Extension, Delhi-110051.

4. In view of the aforesaid facts since *ex-parte* proceedings against the appellants are final, plaintiff has led evidence and proved his case, there is no cross-examination of the plaintiff, admittedly appellants paid a sum of Rs.4,00,000/- to the respondent/plaintiff and thereby creation of lease cannot be disputed, trial court has committed no illegality in decreeing the subject suit.

5. There is no merit in the appeal. Dismissed.

VALMIKI J. MEHTA, J

JULY 24, 2018

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