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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 67/2018 & CM APPL. 14724-25/2018**
ARYAN RETREATS AND VENTURES PVT LTD

..... Appellant

Through: Mr. P.S. Bindra with Ms. Rishika
Arora, Mr. Bhuvneshwar Tyagi & Ms. Savi
Abbot, Advs.

versus

VISHAL OHRI

..... Respondent

Through: Mr. Amit Bansal with
Ms. Manisha Singh, Mr. Arvind Kumar Ray &
Mr. Karan Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **01.05.2018**

The appellant's grievance is with respect to the order of the learned Single Judge dated 22.03.2018 which had required it to deposit arrears of rent @ ₹5,50,000/- per month with effect from 01.08.2017 till the date of the order. The learned Single Judge also directed the appellant to furnish bank guarantee to the extent of ₹18 lakhs.

Mr. P.S. Bindra, learned counsel urges that the impugned order pre-judges the merits and it has foreclosed the appellant's right to advance substantive arguments with respect to forfeiture of the lease. Besides, it is contended that the learned Single Judge could not have proceeded to hold that summary judgment under Order 39 Rule 10 CPC in the absence of an application.

The impugned order takes into account the fact that the registered lease was entered into by the parties on 25.05.2016. The Single Judge also noticed that a dispute existed with respect to whether the premises were available with the appellant and having regard to all these circumstances, directed payment of the rent @ ₹5,50,000/- from 01.08.2017. The requirement of furnishing bank guarantee was in terms of the security deposit stipulation which required the appellant to pay ₹36 lakhs. Concededly, half that amount was paid.

Having regard to the totality of facts and circumstances, this Court is of the opinion that if the appellant deposits the amount directed on or before 15.05.2018 and also complies with the direction to furnish the bank guarantee, its right to defend the proceedings in accordance with law and all rights and contentions in that regard should be kept open. Needless to say, it is open to the defendant/applicant to argue the applicability of Order 39 Rule 10 CPC or any other contention, which is available in law.

The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 01, 2018
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