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

+ EFA(OS) 11/2018 and CM APPL. 27003/2018

ALOK MAHAJAN

..... Appellant

Through: Mr. Ravi Gupta, Senior Advocate with
Mr. Rajesh Arya, Advocate and petitioner in
person.

versus

D P MAHAJAN & ORS

..... Respondents

Through: Mr. T.K. Ganju, Senior Advocate with
Mr. Pragyan Pradip Sharma, Ms. Anandini Kumari
and Mr. Mudit P. Makhijani, Advocates for R-1
and R-2.

Ms. Anusuya Sadhu Sinha, Ms. Priyanka Sharma
Goswami and Ms. Amrita Sharma, Advocates for
R-3 and R-4.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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24.07.2018

1. The appellant (Judgment Debtor No.1 in EX.P. 25/2018) is aggrieved by the orders dated 22.05.2018 and 23.05.2018 passed by the learned Single Judge in EX.P. 25/2018 filed by the respondents No.1 and 2 (parents) against the appellant (son), respondent No.3 (daughter) and respondent No.4 (son).

2. Arguments have been addressed at some length by Mr. Ravi Gupta, Senior Advocate appearing for the appellant, who is also present in Court. In the course of arguments, having regard to the fact that the dispute is between family members and the respondents No.1 and 2 are super-senior citizens, aged 89 and 83 years, we had enquired from learned counsels for the parties in the pre-lunch session if their clients were willing to negotiate an amicable settlement with each other so as to draw the curtains on this litigation.

3. After some negotiations, with the assistance of the counsels for the parties, the parties have arrived at the following settlement:-

- (i) It is agreed that the appellant and his family members comprising of his wife, two daughters and a son shall continue to occupy the first floor of the suit premises, namely, premises No.E-185, Greater Kailash-I, New Delhi, upto 31.12.2018.
- (ii) The appellant and his family members and anyone claiming through them, shall hand over vacant peaceful possession of the first floor of the suit premises to the respondent No.3 on or before 31.12.2018.
- (iii) For a period upto 31.12.2018, the respondent No.3 shall not seek execution of the warrants of possession issued against the appellant on 23.07.2018, in the execution proceedings.
- (iv) Besides regularly clearing the electricity and water charges, the appellant shall pay the use and occupation charges in respect of the first floor of the suit premises @ Rs.40,000/- per month to the respondent No.3. The charges at the above mentioned rate for the months of June and July, 2018 shall be paid by the appellant to the respondent No.3 on or before 31.07.2018 and w.e.f. August, 2018, the said charges shall be paid by him through cheques on or before the

7th day of each calendar month.

- (v) The appellant undertakes that the cheques towards the use and occupation charges tendered to the respondent No.3 shall be honoured as and when presented and in the event, any of the said cheques bounce, he shall pay simple interest @10% p.a. for the period of default.
- (vi) The parties agree that immediately on the appellant handing over vacant peaceful possession of the first floor of the suit premises to the respondent No.3 against acknowledgment, he shall file an affidavit to the said effect in the execution proceeding alongwith an application praying for release of the sum of Rs.1,80,00,000/- lying in the Registry in an FDR, in terms of the final decree and order dated 23.05.2018, alongwith the proportionate interest accrued thereon.
- (vii) In view of the settlement arrived at with the respondents, the appellant shall take steps to withdraw RFA(OS) 4/2018 and 21/2018 filed by him and pending in this Court, within one week from today.
- (viii) The parties agree that till the date the appellant hands over vacant peaceful possession of the suit premises to the respondent No.3, which shall be on or before 31.12.2018, he shall be entitled to continue using the drawing room, kitchen and the laundry area on the ground floor of the suit premises. The appellant undertakes that in this duration, no inconvenience/disturbance/harassment shall be caused by him and/or his family members to the respondents No.1 and 2.
- (ix) The appellant shall furnish a list of furniture and other movables owned by him and lying on the ground floor of the suit premises to the respondents No.1 and 2 through counsel by tomorrow, for

finalization and he undertakes that the said articles shall be removed by him on or before 31.12.2018.

- (x) The parties agree that on expiry of the aforesaid period, on the respondent No.3 approaching the appellant for executing a Sale Deed in her favour, in respect of his share in the suit premises, he shall render all necessary cooperation and appear before the Registrar of Assurances as and when called.
- (xi) It is further agreed that in the event, the appellant declines to execute the Sale Deed as noted above, for any reason whatsoever or fails to co-operate with the respondent No.3, she shall be at liberty to approach the Court Commissioner for execution of the Sale Deed, in terms of the order dated 23.07.2018, passed in the execution proceedings.
- (xii) The parties agree that they shall file their respective affidavits confirming the terms and conditions of the settlement recorded hereinabove within one week from today, while exchanging copies with each other. Apart from his affidavit, the appellant shall ensure that each of his family member files their respective affidavits, undertaking to abide by the terms and conditions of the settlement recorded hereinabove.

4. We have made it clear to the appellant that in the event he reneges from any of the terms and conditions of settlement recorded hereinabove, besides other remedies available in law to the respondents for seeking enforcement of the above terms and conditions of the settlement, he shall also be liable for contempt of court proceedings.

5. In token of acceptance of the terms and conditions of the settlement recorded hereinabove, the parties and/or their respective counsels shall affix their signatures in the margin of the order sheet.
6. The appeal is disposed of alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

JULY 24, 2018

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