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

+ RC.REV. 458/2016

M/S OM PRAKASH NAVEEN

KUMAR SAHANI & ORS

..... Petitioners

Through : Mr.Manish Kaushik, Advocate with
petitioner in person.

versus

RAJAN KATHURIA

..... Respondent

Through : Mr.D.D.Dayani and Mr.Chand Zafar,
Advocates with respondent in person.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **06.12.2018**

This petition challenges the impugned orders dated 15.12.2015 and 05.09.2016 passed by the learned Trial Court against the petitioner in Eviction Case No.172/2014 titled *Rajan Kathuria vs M/s.Om Parkash Naveen Kumar Sahani & Others*.

The learned counsel for the petitioner submitted the learned Trial Court has erred in not considering the video recording as filed by the petitioner which go on to show the respondent is still functioning from the shop which allegedly has gone to the share of his brother vide a partition deed though in the eviction petition it is submitted that after the partition, the respondent has no legal right to stay in the shop in dispute and is not working from there. Nevertheless even if he is working from the shop belonging to his brother, he is still at the mercy of his brother.

After arguing for sometime, the learned counsel for the petitioner at the instructions of petitioner, who is also present in the

Court, submits the petitioner shall be satisfied with the impugned order if a period of one year and three months more is granted to the petitioner to vacate the premises in question. This proposal of petitioner is accepted by the respondent, present in the Court.

In the circumstances, the petitioner is directed to vacate the premises on or before 29.02.2020 and shall continue to pay the user charges @ Rs.5,000/- per month on or before 7th day of each calendar month till 29.02.2020 besides the electricity and water charges as per the actuals. The petitioner shall not sub let, assign or transfer the premises in question to someone else during his occupation. The respondent shall not pursue the execution proceedings till 29.02.2020 against the petitioner.

The petitioner shall file an undertaking to the above effect within one week from today with an advance copy thereof to the learned counsel for the respondent.

With the above observation, the petition is disposed of.

Order *dasti* to both the parties.

YOGESH KHANNA, J.

DECEMBER 06, 2018

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