

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

% **Date of decision: 4th July, 2018**

+ **C.R.P. No.176/2016 & CM No.39733/2016 (for stay).**

RAVINDER CHAUDHARY **Petitioner**

Through: Mr. Anuj Kumar, Adv.

versus

KISHAN KUMAR PAUCHAURI & ORS **Respondents**

Through: Mr. R.K. Sahni, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. This Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) impugns the judgment and decree [dated 4th May, 2016 in CS No.360/2014 of the Court of the Additional District Judge-02 (NE), Karkardooma Courts, Delhi] in favour of the respondent no.1 / plaintiff and against the petitioner / defendant no.1 and respondents no.2 to 8 / defendants with respect to property bearing No.K-5/39A, Street No.33, West Ghonda, Delhi – 110 053, of (i) recovery of possession of the said property; (ii) of permanent injunction restraining creation of any third party interest or parting with possession of property except without due process of law; and, (iii) of declaration that the documents in possession of the petitioner / defendant no.1 and respondents no.2 to 8 / defendants in respect of title to the aforesaid property are null and void and of cancellation of said documents.

2. This Revision Petition under Section 115 of the CPC, instead of an appeal under Section 96 of the CPC, has been preferred against the impugned decree owing to the suit filed by the respondent no.1 / plaintiff, insofar as for recovery of possession, being titled as under Section 6 of the

Specific Relief Act, 1963. In fact, in the said suit, *mesne* profits for unauthorized and illegal use and occupation were also claimed from the petitioner / defendant no.1 and respondents no.2 to 8 / defendants but which have not been granted.

3. The Revision Petition came up first before this Court on 25th October, 2016 and thereafter on 3rd November, 2016 when notice of the Revision Petition was ordered to be issued to the respondents. Vide subsequent order dated 8th March, 2017, on the respondent no.1 / plaintiff appearing before this Court, stay of the impugned order was granted.

4. On 12th July, 2017 it was found that besides respondent no.1 / plaintiff, respondents no.2,4,&8 / defendants only had been served and the petitioner / defendant no.1 had not taken any steps for service of the respondents no.3&5 to 7 / defendants; however the counsel for the petitioner / defendant no.1 stated that the interest of the petitioner / defendant no.1 and the respondents no.2 to 6 / defendants was the same. In this view of the matter, service of the unserved respondents no.3,5 to 7 was dispensed with. It was further informed that the respondent / defendant no.7 Kamlesh, shown as proforma respondent, is the wife of the respondent no.1 / plaintiff and the counsel for the respondent no.1 / plaintiff stated that the respondent no.1 / plaintiff has no adverse interest to the respondent no.7 / defendant. Hence the service of the respondent no.7 / defendant was also dispensed with. It was yet further informed that the respondent no.8 Sunita is the subsequent purchaser from respondent no.5 / defendant and the counsel for the petitioner / defendant no.1 stated that the respondent no.8 / defendant had been served and drew attention to the noting of the Court Master under the order dated 3rd

November, 2016 to the said effect. Since none appeared for the respondent no.8 Sunita, she was on 12th July, 2017 proceeded against *ex parte*.

5. On 12th July, 2017, it was enquired from the counsel for the petitioner / defendant no.1, that since the decree impugned was not only of the relief of recovery of possession under Section 6 of the Specific Relief Act but also of permanent injunction and declaration coupled with cancellation of documents, how was the Revision Petition maintainable.

6. The counsel for the petitioner / defendant no.1 stated that the petitioner / defendant no.1 had earlier preferred RFA No.649/2016 against the impugned judgment and decree but withdrew the same on 21st September, 2016 with liberty to take appropriate remedies and whereafter this Revision Petition was preferred.

7. It was thus found that there was no finding of an appeal under Section 96 of the CPC against such a decree being not maintainable and the petitioner / defendant no.1, by unilateral act, though had earlier preferred the appeal, had withdrawn the same. Being of the *prima facie* opinion that against such a decree, the remedy of Regular First Appeal which has a much wider scope and not of the Revision Petition under Section 115 of the CPC which has limited scope, would lie and with which the counsel for the respondent no.1 / plaintiff also agreed, the counsel for the petitioner / defendant no.1 was asked to explain. On request of the counsel for the petitioner / defendant no.1, hearing was adjourned to 14th July, 2017.

8. On 14th July, 2017, the counsel for the petitioner / defendant no.1 stated that he had not found any case law on the question and the counsel for the respondent no.1 / plaintiff handed over copy of judgment in *Anathula*

Sudhakar Vs. P. Buchi Reddy (2008) 4 SCC 594 and order on the petition was intended to be dictated in Chamber. However, no clarity emerged and the order remained to be passed.

9. The counsel for the respondent no.1 / plaintiff on a subsequent date, also handed over written arguments along with copy of judgment in ***Dharam Dir Vs. Ancha Devi*** 53 (1994) DLT 191. However, passing of the order went on the back burner and the judgment on the aforesaid limited aspect is being pronounced today after intimating the counsels.

10. Section 6 of the Specific Relief Act is as under:-

“6. Suit by person dispossessed of immovable property.—(1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought—

(a) after the expiry of six months from the date of dispossession; or

(b) against the Government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.”

11. Supreme Court, in ***East India Hotels Ltd. Vs. Syndicate Bank*** 1992 Supp 2 SCC 29 held that the purpose behind Section 6 is to restrain a person

from using force to dispossess a person without his consent, otherwise than in due course of law.

12. Notice in this regard may also be taken of Articles 64 & 65 in Part-V titled 'Suits Relating to Immovable Property' of the Schedule to the Limitation Act, 1963. Article 64 provides for a suit for recovery of possession of immovable property based on previous possession and not on title, when the plaintiff, while in possession of the property, has been dispossessed. Article 65 provides for a suit for recovery of possession of immovable property or any interest therein based on title. For both classes of suits, limitation of 12 years is provided commencing, for Article 64, from the date of dispossession and for Article 65, from the date when possession of the defendant becomes adverse to the plaintiff. The same also indicates that a suit for recovery of possession of immovable property can be filed either merely on the basis of prior possession *de hors* title or on the basis of title. Though Article 64 provides for limitation of 12 years but Section 6 supra, for a suit thereunder, provides for a limitation of six months only. A suit for recovery of immovable property, based on previous possession can thus be filed either under Section 6, within six months from date of dispossession or under Article 64 supra, within twelve years from date of dispossession. While against a decree in a suit for recovery of possession of immovable property based on previous possession filed otherwise, an appeal under Section 96 of the CPC would lie but against a decree in a suit for recovery of possession of immovable property based on previous possession, filed under Section 6, the remedy of appeal is barred and only a Revision Petition lies. The reason therefor is that the scope of enquiry in a suit under Section 6 is limited to, whether the plaintiff was formerly in possession and whether he

was dispossessed without his consent, otherwise than in due course of law within six months immediately preceding the date of institution of the suit. The Court in such a suit does not try the question of title. Reference in this regard can be made to ***Lallu Yeshwant Singh Vs. Rao Jagdish Singh*** AIR 1968 SC 620 and ***Somnath Burman Vs. S.P. Raju*** AIR 1970 SC 846. The procedure under Section 6, in ***S.R. Ejaz Vs. T.N. Handloom Weavers' Cooperative Society Ltd.*** (2002) 3 SCC 137, was held to be summary, as aforesaid, to discourage people from adopting any foul means to dispossess a person. In ***State of U.P. Vs. Maharaja Dharmender Prasad Singh*** (1989) 2 SCC 505, ***Krishna Ram Mahale Vs. Shobha Venkat Rao*** (1989) 4 SCC 131 and ***Muddanna Vs. Panthanagere Group Panchayat, Kengeri Hobli*** (2003) 10 SCC 349, it has been held that where a person is in settled possession of property, even on the assumption that he had no right to remain in the property, he cannot be dispossessed by the owner of the property except by due process of law.

13. Notice at this stage may also be taken of Section 5 of the Specific Relief Act as under:-

5. Recovery of specific immovable property.—A person entitled to the possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908).

14. As far back as in ***Ganesh Vs. Dasso*** AIR 1927 Allahabad 669 and again in ***Gokam Chinna Nagaiah Vs. Nagaram Baliga*** AIR 1956 Hyderabad 170 and ***Mt. Atra Devi Vs. Ramswaroop Prasad Singh*** AIR 1972 Patna 186, dealing with *pari materia* provisions of the Specific Relief Act, 1877, it was held that there is a distinction between a suit based upon a

possessory title under Section 5 and a suit under Section 6; in the former case, the plaintiff would be entitled to a decree only where the plaintiff's possession is sufficient proof of his title, while under Section 6, the Court has merely to see whether the plaintiff was in possession six months prior to the date of institution of the suit. In ***Nair Service Society Ltd. Vs. Rev. Father K.C. Alexander*** AIR 1968 SC 1165, dealing with *pari materia* provisions of the Specific Relief Act, 1877, it was explained that if Section 6 is invoked, the plaintiff need not prove title and the title of the defendant does not avail the defendant; when however the period of six months has passed, questions of title can be raised by the defendant and if he does so, the plaintiff must establish better title or fail; it is for this reason only that a suit under Section 6 does not bar a suit of prior possession within 12 years and title need not be proved unless the defendant can prove one.

15. Having expounded on the nature of a suit under Section 6 of the Specific Relief Act and having carved out the difference between such a suit and other suits for recovery of possession based on prior possession, I will now proceed to adjudicate the controversy.

16. The first thought which crosses the mind is that such being the summary nature of a suit under Section 6, whether the respondent no.1 / plaintiff, along with a suit under Section 6 of the Specific Relief Act, could have claimed the other reliefs of permanent injunction and declaration and cancellation of documents of title set up by the respondents / defendants no.2 to 6 and which, vide the impugned decree, have also been declared to be void and ordered to be cancelled. Against a decree under Section 6, the remedy of appeal is barred and only the remedy of Revision Petition is

available. Against a decree of permanent injunction and declaration and cancellation of documents, it is the remedy of appeal which is available and not the remedy of Revision Petition. If along with the relief under Section 6, other reliefs are permitted to be combined, separate remedies, of Revision against the decree, in so far as under Section 6 and of appeal, in so far as with respect to other reliefs, will have to be availed. I have wondered, whether the same is permissible in law and whether not it may lead to conflicting decisions. In fact, with respect to decrees under Section 6, I find Supreme Court in *Sanjay Kumar Pandey Vs. Gulbahar Sheikh* (2004) 4 SCC 664 to have held that ordinarily the High Court would not interfere even in a Revision with a decree or order under Section 6 and may do so only in exceptional cases. In *ITC Limited Vs. Adarsh Cooperative Housing Society Limited* (2013) 10 SCC 169, it was held that the High Court should interfere only if there is grave injustice or error of law and not to re-appreciate evidence.

17. *Anathula Sudhakar* supra cited by the counsel for the respondent no.1 / plaintiff is not found to address the question as has arisen and the counsel for the respondent no.1 / plaintiff also could only draw attention to part thereof holding that, where there are necessary pleadings regarding title and appropriate issue relating to title on which parties have led evidence and if the matter involved is simple and straight-forward, the Court may decide upon the issue regarding title, even in a suit for injunction. What I can understand the counsel for the respondent no.1 / plaintiff to be contending therefrom is only that even though he filed the suit under Section 6 of the Specific Relief Act, it may be treated as a suit for recovery of possession otherwise than under Section 6.

18. I had during the hearing, on a quick scanning of search engines, drawn attention of the counsels to (i) *Hoshiari Devi Vs. Jagat Singh* (2006) 134 DLT 513; (ii) *Bihari Lal Vs. Dina Nath* 2016 SCC OnLine HP 1815; (iii) *Vaneeta Khanna Vs. Rajeev Gupta* (2008) 148 DLT 356; and, (iv) *Adapa Tatarao Vs. Chamantula Mahalakshmi* AIR 2007 AP 44.

19. This Court, in *Hoshiari Devi* supra, in exercise of jurisdiction under Article 227 of the Constitution of India, was concerned with an order of the Additional District Judge holding an appeal against the order of the Civil Judge of rejection under Order VII Rule 11 of the CPC of a plaint in a suit under Section 6 of the Specific Relief Act. It was held that (i) that Section 6 has a special procedure created to try a particular nature of suits where a party is dispossessed from the suit property without due process of law and cannot be clubbed with any other relief; (ii) an order of rejection of a plaint is also a decree within the meaning of Section 2(2) of the CPC; and, (iii) that thus even against an order of rejection of a plaint in a suit under Section 6 of the Specific Relief Act, the remedy would only be of a Revision Petition and the appeal preferred was not maintainable.

20. The counsel for the respondent no.1 / plaintiff, in his written arguments, has contended that as per the aforesaid dicta also, a Revision Petition lies.

21. I am afraid not. Attention to the aforesaid judgment was drawn only to show that the other reliefs claimed, besides the relief under Section 6, could not have been clubbed with the suit and the aforesaid judgment is not a precedent on the Court, in a Revision Petition, being required to consider /

adjudicate the decree qua the other reliefs or to consider only the decree qua Section 6.

22. ***Vaneeta Khanna*** supra refers to an earlier suit filed by the plaintiff therein, for recovery of possession under Sections 5&6 of the Specific Relief Act, for specific performance of Agreement to Sell, for recovery of *mesne* profits / damages and for permanent injunction restraining the defendants from dealing with the property and which suit was held by the Supreme Court to be for multifarious reliefs and not maintainable under Section 6 of the Specific Relief Act.

23. The counsel for the respondent no.1 / plaintiff, in his written arguments, has however not correctly appreciated the facts and has read the said judgment as dismissing the application under Order VII Rule 11 of the CPC, when the correct facts are as stated above.

24. Thus, ***Vaneeta Khanna*** also is a judgment on reliefs other than under Section 6 of the Specific Relief Act being not entitled to be clubbed along with a suit thereunder.

25. The High Court of Andhra Pradesh also, in ***Adapa Tatarao*** supra held (i) that the proceedings in a suit under Section 6 are summary in nature; (ii) that the Trial Court in that case had not addressed this basic requirement of Section 6 and had framed issues totally unrelated to adjudication to be undertaken in a Section 6 suit; (iii) that the suit also suffered from the infirmity of the plaintiff having incorporated the relief of perpetual injunction in respect of another item, in a suit filed under Section 6 of the Act and which is totally impermissible; (iv) that the parameters for adjudication of claim under Section 6 on the one hand and for perpetual

injunction under Section 38 of the Specific Relief Act on the other hand, are totally different; (v) while for adjudication of a Section 6 suit, the trial is summary in nature and the decree is not appealable, in contrast, a detailed trial has to be conducted in a suit for perpetual injunction and a first appeal and second appeal is provided against a decree therein; (vi) it is impossible and impermissible to mix up such divergent types of adjudication; and, (vii) that the judgment and decree of the Trial Court was liable to be set aside on that ground alone and the matter needed to be adjudicated afresh on proper lines.

26. The counsel for the respondent no.1 / plaintiff, with reference to the aforesaid judgment, has contended that the High Court therein also, though set aside the decree but remanded the suit under Section 6 of the Act for fresh disposal after segregating the relief of perpetual injunction therefrom.

27. The counsel for the respondent no.1 / plaintiff thus appears to suggest that this Revision Petition should be allowed and the subject suit also remanded to the Trial Court for fresh adjudication qua the relief under Section 6 of the Specific Relief Act only.

28. The High Court of Himachal Pradesh in ***Bihari Lal*** supra, also was concerned with a Revision Petition against a decree in a suit for recovery of possession under Section 6 of the Specific Relief Act and for permanent injunction under Section 38 thereof. It was held (i) that the suit could not be treated to be one under Section 6, for the reason that a decree for permanent injunction had also been sought; (ii) that the Trial Court also had not treated the suit as one under Section 6 and not tried the same summarily as contemplated under Section 6; and, (iii) on the contrary, issues had been

framed and full trial held; thus the decree could not have been agitated by invoking revisional jurisdiction and on dismissal of the suit, the appropriate remedy should have been resorted to.

29. The counsel for the respondent no.1 / plaintiff, in his written arguments, with respect to the aforesaid judgment has contended that in the present case also, a detailed trial has been conducted and has prayed that the impugned judgment, to the extent of passing a decree for declaration and cancellation and permanent injunction, be set aside and be upheld qua the decree for recovery of possession.

30. The counsel for the respondent no.1 / plaintiff in his written arguments has also contended (i) that in a suit under Section 6, other reliefs cannot be claimed as a consequence of repossession being granted under the Section; (ii) that in the facts of the present case, the relief granted of repossession is not consequential to the relief of declaration also granted; the relief of declaration claimed and granted was independent of the relief of possession; (iii) that the relief of repossession has been granted on an independent finding of dispossession of the respondent no.1 / plaintiff from the property within six months prior to the institution of the suit; (iv) though under Section 6 a summary trial is requisite but in the present case, a full-fledged trial has been conducted; the suit, from which this petition arises, is a composite suit wherein in view of the stand taken by the petitioner / defendant no.1 that the respondent no.7 / defendant Kamlesh, being the wife of the respondent no.1 / plaintiff has sold the property to the respondent / defendant no.5 Malkhan Singh, it was necessary to incorporate the relief of declaration as the petitioner / defendant no.1 had tried to put a cloud on the

title of the respondent no.1 / plaintiff; (v) that if this Court comes to the conclusion that the Trial Court has exceeded its jurisdiction in granting relief of declaration, then the decree insofar as of declaration be set aside and the decree insofar as for possession be upheld; and, (vi) that in ***Dharam Dir*** supra, this Court held that a claim for recovery of *mesne* profits / damages cannot be clubbed along with a suit for recovery of possession under Section 6 but this Court in the Revision Petition against the composite decree for recovery of possession and *mesne* profits, instead of setting aside in entirety the decree, set aside the decree for recovery of *mesne* profits / damages but maintained the decree for recovery of possession.

31. I have not come across any other judgment dealing with the controversy save my own in ***Qayamuddin Vs. Jamil-ud-Din*** (2013) 201 DLT 758 wherein I was concerned with a first appeal against an order of rejection of plaint in a suit for declaration, possession under Section 6 of the Specific Relief Act, damages and injunction on the ground of the other reliefs being not entitled to be clubbed with the relief under Section 6. It was held that the appeal, qua the rejection of plaint with relief under Section 6 was not maintainable. It was further held that the appeal, qua rejection of plaint for other reliefs also was not maintainable because the reliefs of declaration, damages and injunction were closely intertwined to the relief of possession and rather incidental or consequential to the main relief claimed of possession under Section 6 of the Act. It was further held that the suit for the said reliefs, without the relief of possession, would not even be maintainable.

32. It is thus clear, that the suit as filed was not maintainable. One option of course is to allow the Revision Petition on this ground alone, leaving it open to the respondent no.1 / plaintiff to pursue the remedy, either by filing a suit for recovery of possession under Section 5 of the Specific Relief Act or to file a suit for recovery of possession based on title, along with the other reliefs to which the plaintiff may be entitled to. The counsel for the respondent no.1 / plaintiff however, as aforesaid, has suggested setting aside of the decree and remand of the suit for decision afresh qua the relief of recovery of possession under Section 6 of the Specific Relief Act only and in support of which the counsel for the respondent no.1 / plaintiff has stated that the claim for declaration and injunction is not relatable to the claim for recovery of possession.

33. To consider the aforesaid limited aspect, I have perused the plaint and find the respondent no.1 / plaintiff to have pleaded (i) that the respondent no.1 / plaintiff is the owner of property bearing No. K-5/39A, Street No.33, West Ghonda, Delhi – 110 053; (ii) that on 12th April, 2010, the petitioner / defendant no.1, in conspiracy with the respondents / defendants no.2 to 6, forcibly threw away building materials of the respondent no.1 / plaintiff collected for construction in the property and put their own locks over the suit property, dispossessing the respondent no.1 / plaintiff therefrom; (iii) the petitioner / defendant no.1, on being approached by the respondent no.1 / plaintiff, claimed to have purchased the property from Kamlesh, wife of the respondent no.1 / plaintiff; (iv) that the respondent no.1 / plaintiff, and not his wife Kamlesh, is the owner of the property and the wife of the respondent no.1 / plaintiff could not have sold the property; and, (v) that the wife of the respondent no.1 / plaintiff disclosed to the respondent no.1 / plaintiff that she

had been cheated by the petitioner / defendant no.1 and respondents / defendants no.2 to 6 on the pretext of borrowing money ‘for her’ and that the respondent / defendant no.6 Sudhir Kumar Chauhan had induced her to bring the chain of the documents of the suit property to the office of the Sub Registrar where she was forced to sign some papers merely on receipt of Rs.25,000/-; hence the suit for the reliefs aforesaid.

34. As aforesaid would show, the claim of the respondent no.1 / plaintiff for possession, is not *de hors* the claim for declaration and cancellation of documents and for permanent injunction and is rather intertwined therein. A perusal of the impugned judgment also shows the following issues to have been framed in the suit on 8th November, 2012:-

- “(1) Whether the plaintiff has locus to file the present suit? OPP
- (2) Whether the suit is bad for mis-joinder and non-joinder of the necessary party? OPD
- (3) Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD
- (4) Whether the suit as well as the affidavit have not been drafted or verified as per High Court rules? OPD
- (5) Whether the plaintiff is entitled for the decree of possession of the suit property against the defendants? OPP
- (6) Whether the plaintiff is entitled for a decree of declaration against the defendants? OPP
- (7) Whether the plaintiff is entitled for mesne profits, if yes, at what rate? OPP

(8) Whether the plaintiff is entitled for decree of permanent injunction against the defendants? OPP

(9) Relief.”

35. Though the evidence led in the suit is not before me but a perusal of the discussion of evidence, in the impugned judgment, shows the same also to have been led on all the issues together.

36. I have wondered, that if the proposal of the counsel for the respondent no.1 / plaintiff were to be accepted and the suit remanded for fresh decision only qua the relief of possession, how would the learned Additional District Judge now proceed to segregate the pleadings and the evidence into that qua the relief of possession and that qua the other reliefs. The same appears to be an impossible task and is sure to keep the parties embroiled in litigation forever.

37. The said option is thus not found feasible.

38. I have next considered the option of setting aside of the decree with liberty to the respondent no.1 / plaintiff to sue afresh. The respondent no.1 / plaintiff is certainly entitled to do so under the provisions of Section 6 also. However, the thought which crosses my mind is, whether not the same would be a clear waste of time, not only of litigants but also of the Court and which is precious. The suit from which this petition arises is also not found to have been tried summarily but rather as a regular suit and remained pending for nearly six years. This Court cannot be blind to the said fact.

39. Now that the respondent no.1 / plaintiff also as aforesaid has agreed that the remedy of revision is not available and the remedy of appeal is

available, it seems to be a better course of action to dispose of this Revision Petition by relegating the petitioner / defendant no.1 to the remedy of appeal, notwithstanding the petitioner / defendant no.1 having earlier withdrawn the appeal and notwithstanding the appellate remedy being now palpably barred by time. It is felt that the said course of action will ensure that the judicial time already spent in the suit and in this proceeding is not wasted and at the same time, the petitioner / defendant no.1 is able to avail of remedy with respect to the decree against him.

40. Needless to state, the respondent no.1 / plaintiff being himself to blame for the situation aforesaid, would not be entitled to oppose the appeal if any so preferred by the petitioner / defendant no.1, on the ground of it being not maintainable or on the ground of it being barred by time.

41. Similarly the petitioner / defendant no.1 being himself to blame for having on an earlier occasion unilaterally withdrawn the correct remedy of appeal earlier availed of, will not be entitled to have the appeal allowed merely on the ground of the suit for the composite reliefs under Section 6 of the Specific Relief Act and of permanent injunction and declaration and cancellation being not maintainable. The appeal shall be decided on merits of the impugned judgment, treating the suit, insofar as for the relief of recovery of possession, to be under Section 5 of the Specific Relief Act and not under Section 6 of the Specific Relief Act. It will however be open to both the counsels to contend before the Appellate Court that any additional evidence is required to be led in the suit.

42. Accordingly, this Revision Petition is disposed of by relegating the petitioner / defendant no.1 to the remedy against the impugned decree, of

appeal under Section 96 of the CPC and with a further provision that if the said appeal is preferred on or before 31st July, 2018, the same shall be entertained and decided on merits without going into the aspect of limitation and by binding the parties hereto to the conditions aforesaid. Since there has been an order in force of stay of the impugned judgment and decree, the said order is also extended till 31st July, 2018, whereafter, unless there is an order of stay of the impugned judgment and decree in any other proceeding, the respondent no.1 / plaintiff will be entitled to execute the impugned judgment and decree.

43. The parties are left to bear their own costs.

JULY 4, 2018
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RAJIV SAHAI ENDLAW, J.