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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 921/2018**

SUDESH KAPOOR & ANR Appellants
Through: Mr. Ajay Majithia, Advocate
(9810163904)

versus

RAJEEV KAPOOR Respondent
Through: Mr. Manish Sharma, Advocate
(9810105226)

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **12.11.2018**

Caveat No. 1023/2018

Counsel appears for the caveator. Caveat accordingly stands discharged.

RFA No. 921/2018 & CM Nos.46729-31/2018

1. There was a limited issue in this appeal on the aspect as to whether the mother Smt. Kailash Vati did or did not execute a registered Gift Deed dated 12.7.2002 making the respondent/plaintiff as the owner of the suit property. Trial court has affirmed the Gift Deed and has decreed the subject suit for possession of the suit property being the ground floor of the property bearing no.D-9, Kailash Colony, New Delhi-48.

2. After the appeal was argued for some time, counsel for the appellants states that no judgment is invited but appellants, since are widow and minor daughter of the brother of the respondent/plaintiff, if a sufficient period of time is given to the appellants to vacate the suit premises and which should be a period of five years, then the appeal be disposed of as not pressed by granting such time to the appellants/defendants.

3. Though counsel for the respondent was initially hesitant, and so was the respondent/plaintiff who was present in person in Court in view of the fact that a period of five years is a very large period of time, but the respondent/plaintiff and his counsel have acted very fairly considering that the appellants/defendants are the widow and minor daughter of the brother of the respondent/plaintiff and therefore a period of five years to vacate the suit property is agreeable to the respondent/plaintiff in the peculiar facts of the present case.

4. Let the appellant no.1 file an affidavit of undertaking for herself as also on behalf of appellant no.2, within a period of two weeks from today, to vacate the suit property on or before 30.11.2023, and the appellants in the meanwhile will continue to pay the charges towards electricity, water etc as payable for the suit property till possession thereof is handed over to the

respondent/plaintiff.

5. Accordingly, subject to the appellant no.1 filing the aforesaid undertaking for herself as also on behalf of appellant no.2, and complying with the terms of the same in terms of the present order, while disposing of the appeal as not pressed the appellants are granted time to vacate the suit property on or before 30.11.2023.

6. The appeal is accordingly disposed of with the aforesaid observations.

VALMIKI J. MEHTA, J

NOVEMBER 12, 2018

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