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

% *Date of Order: 03.12.2018*

+ **C.R.P. 253/2018 & CM No.49322/2018 & 49324/2018**

HEMA

..... Petitioner

Through Ms.Ruchira Goel, Adv. with
petitioner in person.

versus

INDERJEET & ANR

..... Respondents

Through Mr.Manoj Kumar Sharma, Adv.
with respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

1. The impugned judgment and decree dated 21.07.2018 passed by the court of learned Additional District Judge-02, East District, Karkardooma Courts, Delhi ('ADJ') against the appellant and her husband (respondent No.2 herein) and in favour of respondent No.1 for possession and permanent injunction in respect of the suit property i.e. First Floor of property bearing No.9/4548, Gali No.5, Ajeet Nagar, Gandhi Nagar, Delhi-110031 under Section 6 of the Specific Relief Act, 1963 in Civil Suit No.2389/2016, is the subject matter of challenge in this Civil Revision Petition.

2. By the impugned judgment, after appreciating the evidence adduced by both the parties, the learned ADJ found that the

respondent No.1/plaintiff was proved to be the absolute owner of the above said property and the petitioner and the respondent No.2 were unauthorized occupants/trespassers therein and they were intending to create third party interest in the suit property.

3. Admittedly, the respondent No.2 is the son of respondent No.1 and also the husband of the petitioner. The learned ADJ relied upon an judgment of the Hon'ble Supreme Court in ***Joseph Severance & Ors. Vs. Benny Mathew & Ors., JT 2005 (8) SC 509***, holding that “*A child resides in the house of his parents under permissive possession and not strictly as a licensee*”. It was also held that “*No rights akin to the rights of a licensee are available to the child.*”

4. At this stage, Ms.Ruchira Goel, the learned counsel for the petitioner, on instructions of the petitioner, who is appearing in person, states that she does not press the revision petition and seeks permission to withdraw the same. She, however, requests that two months' time may be granted to the petitioner to vacate the suit property and deliver the vacant and peaceful possession thereof to the respondent No.1.

5. The learned counsel for the respondent No.1, on instructions of respondent No.1, who is present in person, states that he has no objection to the same but the delivery of possession must be ensured to him.

6. The learned counsel for the petitioner, on instructions, states that the petitioner is ready and willing even to file an undertaking in the form of affidavit.

7. In the circumstances, subject to the petitioner filing the undertaking by way of affidavit before the Registrar General of this Court within two weeks to vacate and hand over the vacant and peaceful possession of the said property to the respondent No.1 on or before 03.02.2019 positively, the impugned judgment and decree dated 21.07.2018 shall not be executed till then.

8. The consequences of breach of undertaking have been explained to the petitioner, who is present in person in Court.

9. In view of above, the petition along with applications, being CM No.49322/2018 and CM No.49324/2018, is dismissed as withdrawn.

DECEMBER 03, 2018
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(VINOD GOEL)
JUDGE