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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 982/2019, CM APPL.No.49443/2019

AJAY PAL

..... Appellant

Through : Ms.Swati Rathi, Mr.Rohit Boota,
Ms.Sakshi, Advocates.

versus

LAXMI NARAYAN NAGPAL

..... Respondent

Through : Mr.Sudhir Kumar Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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02.12.2019

This appeal is against the judgment and decree dated 30.05.2019 whereby on an application under Order *XII* Rule 6 CPC filed by the respondent the suit was decreed qua possession, though the issue of mesne profits is still pending with the learned Trial Court.

The landlord and tenant relationship has since been admitted; the notice of quit and the rent being more than Rs.3,500/- per month is also admitted, hence on merits the appellant has no case. However the subject premises is being used as P.G. for students residing therein. It is stated by the appellant the students would take exams in May-June, 2019 and she would vacate the premises on or before 15.06.2020 and hence requests to retain the premises till 15.06.2020.

The learned counsel for the respondent says the appellant is in arrears of 19 months admitted rental @ Rs.12,000/- per month and she be directed to pay the same. Since the decree of possession is

against the appellant hence the appellant can be directed to deposit the user charges at the market rate.

Admittedly the issue of mesne profits is pending before the learned Trial Court hence as an interim measure the appellant to pay user charges of the subject premises at the rate of Rs.25,000/- per month to the respondent w.e.f. 01.12.2019 till 15.06.2020 viz., the date on which the appellant shall vacate the premises and handover the vacant and peaceful possession thereof to the respondent herein. The user charges from 01.12.2019 shall be payable on or before 7th day of each calendar month. The electricity and water charges shall be paid as per actuals. The arrears till 30.11.2019 shall be cleared by the appellant herein within two months from today. The submission of the appellant that she is in arrears only from July, 2018 to November, 2019 if proved, shall be entitled to the refund for any excess payment. Any default in the payment of arrears or future mesne profits would entail the eviction forthwith. An undertaking for arrears, future user charges and vacation of premises on or before 15.06.2020 shall be filed by the appellant within a week from today. *The learned Trial Court not to be influenced by any observation made qua payment of user charges.*

The appeal stands disposed of. Pending application also stands disposed of.

No order as to costs.

YOGESH KHANNA, J.

DECEMBER 02, 2019

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