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

+ **RFA(OS) 41/2017**

J CHAWLA

..... Appellant

Through: Mr.Shrey Chathly, Ms.Bandana Grover
and Ms.Payal, Advocates

versus

VINAY CHHABRA & ORS

..... Respondent

Through: Mr.Anil Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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19.07.2019

1. The appellant/plaintiff is aggrieved by the order dated 30.5.2017 passed in CS(OS)No.271/2017, whereunder his suit for possession, declaration and permanent injunction in respect of the second floor of premises bearing No.11-B, Rajender Park, New Delhi, was dismissed, on the ground that the same is barred by limitation.

2. Learned counsel for the appellant explains that his client had filed two separate suits against the respondent in respect of separate floors of the captioned premises. Besides CS(OS)No.271/2017, which is the subject matter of the present appeal, the appellant had filed CS(OS)No.520/2016 against the respondent herein in respect of the third floor of the same premises wherein a decree was passed in his favour vide judgment dated 15.2.2019. It is submitted by learned counsel for the appellant that the issue of limitation was also considered by the learned Single Judge in captioned suit and repelled vide judgment dated 15.2.2019.

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3. Aggrieved by the said judgment, the respondents herein had preferred an intra court appeal registered as RFA(OS)No.47/2019, which was recently dismissed by the Division Bench vide order dated 13.5.2019. Thereafter, the respondents have handed over vacant physical possession of the third floor of the suit premises on the basis of an amicable settlement arrived at between the parties though warrants of possession in execution of the decree had been issued.

4. In this background, learned counsel for the appellant states that the impugned judgment dated 30.5.2017 passed in CS(OS)No.271/2017 may be quashed and set aside and the suit be remanded back for fresh consideration.

5. Learned counsel for the respondents states that he has no objection to the said request.

6. Accordingly, the impugned order dated 30.5.2017 is quashed and set aside and CS(OS)No.271/2017 is restored to its original position. The parties are directed to appear before the learned Single Judge on the Original Side on 29.7.2019, for further proceedings to be taken from the stage at which the suit was pending at the relevant point in time.

7. The appeal stands disposed of with no orders as to costs.

HIMA KOHLI, J

ASHA MENON, J

JULY 19, 2019

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