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

+ **RFA 1013/2017**

SURENDER NATH KAPUR Appellant

Through : Mr.G.S.Patwalia, Advocate.

versus

SHYAM SUNDER BUHDIRAJANI & ANR Respondents

Through : Mr.Vijay Zaveri, Advocate for R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **06.09.2019**

CM APPL No.40259/2019

This application is under Order XXIII Rule 3 CPC for disposing of the present appeal in terms of the compromise/settlement arrived at between the parties. The terms of the settlement are as under:

“i. The Appellant/ Defendant agrees to suffer the decree of possession and hereby agrees to surrender the tenancy in respect of the demised premises, i.e. A-314, First Floor. Defence Colony, New Delhi to the Respondents /Plaintiffs. The Appellant/ Defendant undertakes to hand over the vacant and peaceful possession of the demised premises on or before 30/09/2019.

ii. That the Respondents/Plaintiff have agreed to give up their entire claim for mesne profits, interest and cost in lieu thereof

iii. That towards the improvements and additions and multiple repairs carried out in the demised premises by Appellant/Defendant in the period of more than 33 years that the Appellant has lived in the demised premises, the Respondents /Plaintiffs have agreed to pay to the Appellant/ Defendant a sum of Rs.35,00,000/- (Rupees Thirty Five Lacs Only). Out of the said sum, a sum of Rs. 500,000/- (Rupees Five Lacs only) has been paid by the Respondent to the Claimant by DD vide No. 053502, dated 04/09/2019, drawn on HSBC Bank. The remaining amount of Rs. 30,00,000/- (Rupees Thirty Lacs Only) shall be paid by way of a pay order, at the time of handing over of the vacant possession of the demised premises. The

Respondents/Plaintiffs have inspected the demised premises and agree that the aforesaid sum of Rs.35,00,000/- (Rupees Thirty Five Lacs Only) is a reasonable sum for improvements, additions and multiple repairs made by the Appellant/Defendant in the demised premises.

iv. Pursuant to the impugned judgment dated 03.11.2017, the Appellant/ Defendant has deposited in this Hon'ble Court the decretal amount and continues to deposit Rs.30,000/- (Rupees Thirty Thousand Only) per month towards mesne profit. The parties agree that entire amount deposited by the Appellant/ Defendant in this Hon'ble Court along with interest accrued thereupon shall be paid back by the Registrar General of this Hon'ble High Court to the Appellant/ Defendant. The parties have settled all their claims against each other. They shall not be left with any other claim of any nature against each other."

It is averred the compromise/settlement has been arrived at by the parties by their own choice and free will, without any force, fraud, coercion or misrepresentation from any quarter whatsoever.

The name of the appellant is wrongly spelled so let an amended memo of parties be filed within a week from today. The registry is directed to make the pay orders of the amount so deposited by the appellant herein, alongwith interest accrued thereupon, and hand over the same to the appellant.

In the circumstances the present appeal RFA 1013/2017 stands disposed of. The parties shall be bound by the terms of the settlement so arrived at. An undertaking shall be filed by the parties within a week from today.

No order as to costs.

YOGESH KHANNA, J.

SEPTEMBER 06, 2019/DU