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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 221/2020**
SHARAD MOHAN KRISHNA Petitioner
Through: Mr. Rishabh Kapur, Advocate.
(M:7042181838)
versus

ANKIT KUMAR Respondent
Through: Mr. Bhupesh Narula, Advocate.
(M:9810260246)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **24.02.2020**

CM APPL. 7190/2020(Exem)

1. Allowed, subject to all just exceptions. Application is disposed of.

CM(M) 221/2020, CM APPLs. 7189/2020 & 7191/2020

2. The grievance in the petition is that the Petitioner's/Defendant's (*hereinafter*, "*Defendant*") evidence has been closed vide order dated 25th April, 2019 and an application seeking further permission to lead evidence has also been dismissed. The suit of the Plaintiff/Respondent (*hereinafter*, "*Plaintiff*") was originally filed for possession and recovery in respect of property bearing Flat No. 213, Ground Floor, D-1 Block, Sector-E, Pocket-2, Vasant Kunj, New Delhi - 110070. The Defendant is the tenant, who had taken the property on rent from 15th November, 2012. It is the admitted position that after the filing of the suit, possession of the flat has been handed over, thus, the only issue is in respect of the *mesne* profits and damages etc, which the Plaintiff has claimed.

3. Ld. counsel for the Defendant submits that it was due to the

negligence of the Defendant's counsel, against whom he has now filed complaint with the Bar Council, that the evidence was not led in time. In view of this, the Defendant had changed his lawyer on 9th October, 2019 and sought further time to file evidence, which was rejected by the Trial Court. Ld. Counsel for the Plaintiff opposes the grant of any further opportunity.

4. After going through the order sheet of the Trial Court as also the list of dates, it is clear that there has been laxity by the earlier counsel for the Defendant. The tenant ought not to suffer on this count and permission can be granted subject to imposition of strict terms. Under these circumstances it is directed as under:

i) Since the Plaintiff is seeking recovery of rental amount of Rs.19,000/- per month and the total amount of which recovery was sought is about Rs.8 lakhs, as a condition for being permitted to file list of witnesses and evidence, the Defendant shall deposit a sum of Rs.2 lakhs (Rs.1 lakh by 31st March, 2020 and further Rs.1 lakh by 30st April, 2020) before the Trial Court. Subject to the said payment being made, the list of witnesses shall be filed within two weeks, and the evidence shall be filed within two weeks thereafter.

ii) The Defendant shall not be permitted to lead evidence of more than three witnesses. If the Defendant wishes to file any records of police complaints or electricity bills, certified copies of the same/ originals are permitted to be placed on record and the same shall be exhibited. The said authorities need not be summoned for proving these documents.

5. The evidence shall be concluded on or before 31st May, 2020. The evidence shall be led before the Trial Court subject to the deposit of Rs.2

lakhs, in accordance with the schedule prescribed above. The amount, which is being deposited, shall abide by the final decision in the suit. If any mesne profits is granted by the trial court, suitable adjustment for the sum of Rs. 2 lakhs shall be given by the trial court. This Court has not examined the matter on merits.

6. With these observations, the petition and all pending applications are disposed of.

Dasti under signatures of Court Master.

PRATHIBA M. SINGH, J.

FEBRUARY 24, 2020

Dj/RG