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

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Judgment delivered on: 24.08.2020

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CM(M) 384/2020 & CM APPL.15554/2020

JSG HOSPITALITY & ORS.

..... Petitioners

versus

MRS. PARDAMEN KAUR KOHLI & ORS.Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Abhishek Kumar, Advocate.

For the Respondent: Mr. Akhil Mittal, Standing Counsel, North DMC.
Mr. Nitin Gupta, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Learned counsel for the parties inform that the premises was de-sealed by the officers of North MCD, however, as there were no useable articles lying inside the premises, petitioner did not remove any article and left the same.
3. Learned counsel for the petitioner under instructions submits that the vacant possession of the said premises has been handed over to the respondents on 17.08.2020 and they have no claim with regard to the tenanted premises and their tenancy rights be deemed to have been surrendered.

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Signing Date: 24.08.2020 18:53:04
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to HMJ Sanjeev Sachdeva.

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4. Learned counsel appearing for the respondent submits that the Suit of the respondent also seeks to recover arrears of rent and mesne profits. He further submits that there is substantial electricity and water bill due which has not been paid by the petitioners.

5. Learned counsel for the petitioners submits that petitioners have a counter claim in the suit.

6. Petitioners impugn order dated 23.01.2020 whereby the application of the petitioner seeking recall of PW.1 for further cross examination was dismissed.

7. The issues were framed in the suit on 19.01.2019. Affidavit by way of evidence of PW - 1 was tendered on 07.02.2019. Petitioner sought an adjournment for conducting cross examination, which was granted subject to costs. Thereafter cross examination was conducted on 06.05.2019. Thereafter it was deferred to 06.07.2020, when an adjournment was sought on the ground that there was a change in counsel. The Trial Court refused to accept the explanation and closed the right of further cross examination.

8. It is observed that the witness was cross examined on 06.05.2019 when the case was adjourned to 06.07.2019 on which date an adjournment was sought on the ground of change of counsel. Court has also noticed that the costs imposed by order dated 07.02.2019 have not been paid. It is pointed out that the cost already stands paid.

9. Keeping in view the facts and circumstances of the case, the orders dated 06.07.2019 and 23.01.2020 are set aside. One

opportunity is given to the petitioner to cross examine PW - 1.

10. Since the evidence of the respondent (plaintiff) was also closed by learned counsel, in view of the closure of cross examination, the respondent (plaintiff) would be at liberty to lead further evidence, if so desired by the respondent (plaintiff).

11. List before the trial Court for directions/fixing an appropriate date for cross examination on 30.09.2020.

12. It would be open to the respondent to seek amendment of the plaint and to include the relief with regard to arrears of water and electricity charges.

13. It is further clarified that this Court has not expressed any opinion on the merits of the claim or the counter claim of the petitioner.

14. Petition is disposed of in the above terms.

15. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

AUGUST 24, 2020

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