

\$~30 (2021)

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

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Date of decision: 25.11.2021

+ **EFA(OS) 5/2008, CM APPLs. 11609/2014, 12124/2014, 34412/2016, 2403/2017, 5480/2017, 38695/2017, 21977/2020, 26808/2020, 26895/2020, 28816/2020, 2441-42/2021, 7608/2021**

CE CONSTRUCTION LTD.

.....Appellant

Through: Mr Ramesh Singh, Senior Advocate
with Mr Abhishek Handa and Mr
Gaurav Kumar, Advocates.

versus

AJAY RELAN & ORS.

.....Respondents

Through: Mr Sudhir Makkar, Senior Advocate
with Ms Roopa Dayal and Mr Bindu
Bhatt, Advocates for R-1.
Mr Satvik Varma, Senior Advocate
with Mr Mohit K. Mudgal, Advocate
for R-2.
Mr Rajesh Mahajan, Additional
Standing Counsel with Dr Joy Tirkey,
DCP/Crime.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. This appeal is directed against the judgement and order dated 04.01.2008, passed by the learned single judge in the execution petition i.e., Ex. P. No.321/2003.
2. Mr Ramesh Singh, learned senior counsel, who appears on behalf of

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RANI

Signing Date: 06.12.2021 EFA(OS) 5/2008

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the appellant i.e., CE Construction Ltd., says that this appeal can be closed as the appellant would like to address arguments before the learned single judge in the pending application i.e., I.A. No.20535/2014 preferred in CS(OS) No.749/1994.

2.1. Furthermore, Mr Ramesh Singh says that the appellant was in occupation of the first floor of the subject property i.e., S-23, Panchsheel Park, New Delhi and had deposited rent/compensation *qua* the same for the period spanning between 28.03.2003 and 2014. Mr Ramesh goes on to say that the appellant had filed an application i.e., CM No.7608/2021 in the instant appeal to seek refund of the rent/compensation deposited by it.

2.2. Mr Ramesh Singh, thus, says that, the appellant should be given liberty to file a similar application before the learned single judge if its prayer for closing the appeal is accepted.

2.3. Mr Satvik Varma, learned senior counsel, who appears on behalf of respondent no. 2 i.e., Durga Builders (P) Ltd states that since I.A. No.20535/2014 was filed by the said entity in CS (OS) 749/2014—logically the said entity would like to prosecute the said application, and therefore, he can have no objection to the plea made by Mr Ramesh Singh to close the appeal.

2.4. Mr Sudhir Makkar, learned senior counsel, who appears on behalf of respondent no. 1/decree holder, says that as long as the appeal is closed, and the appellant and other interested parties advance their arguments before the learned single judge in I.A. No.20535/2014, he can have no objection.

3. Accordingly, as prayed, the appeal is closed, with liberty to the concerned parties involved in the present appeal to advance their respective stands in I.A. No.20535/2014 before the learned single judge.

3.1. Furthermore, the appellant will have the liberty to move the application for refund of rent/compensation deposited with respect to the aforementioned property i.e., S-23, Panchsheel Park, New Delhi. In case such an application is moved, the learned single judge will rule on same, after giving opportunity to all concerned.

4. We may note that, pursuant to the order dated 25.03.2021, a report, albeit in a sealed envelope, was placed before us. This report has been prepared by Mr Joy Tirkey, Deputy Commissioner of Police (Crime), Delhi Police.

4.1 The sealed envelope was opened and the report contained therein was perused.

4.2. Clearly, Mr. Tirkey has returned certain findings which possibly could have an impact on dispute at hand.

4.3. Therefore, we are of the view that this report should be made available to the parties involved in the present appeal. The Registry will make copies of the said report, and if approached, will hand over a copy of the same to the advocates appearing for the concerned parties.

4.4. Needless to add, this report will also be placed before the learned single judge. The learned single judge will be at liberty to grant an opportunity to the concerned parties, if they so desire, to file objections *qua* the same.

5. The appeal is disposed of in the aforesaid terms. Consequently, pending applications shall stand closed, albeit, in the aforesaid terms.

6. At this stage, Mr. Makkar says that his client i.e., respondent no. 1/decree holder would also want liberty to move the learned single judge for being paid the rent/compensation by the appellant with the Registry of the

Court.

6.1. Liberty, in that behalf, is granted.

6.2. The learned single judge will take a call on the abovementioned application, if the same is moved by respondent.

7. The case file shall stand consigned to record.

**(RAJIV SHAKDHER)
JUDGE**

**(TALWANT SINGH)
JUDGE**

NOVEMBER 25, 2021

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Click here to check corrigendum, if any

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Signing Date: 06.12.2021 11:44:00 (OS) 5/2008