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

+ CM(M) 297/2022, CM APPLs. 16115/2022 (stay) & 16116/2022 (exemption)

SHRI NARSINGH SHAH Petitioner
Through: Mr. Ashwin Vaish and Mr. V. Thomas, Advs.

versus

BDR DEVELOPERS PVT. LTD Respondent
Through: Mr. Akhil Sachar, Mr. Sunando Tulsyan and Mr. Sangram Singh, Advs.

CORAM:**HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN****ORDER (ORAL)**

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12.04.2022

1. The respondent/plaintiff claimed itself to be an exclusive owner of a built-up property, i.e. A-25, Khasra No. 922, Village Molarband, Abadi A Block, Om Nagar, Tehsil Kalkaji, Post Office Badarpur, New Delhi-110044 "the suit premises" by virtue of two Sale Deeds and the petitioner/defendant is the former lessee under the respondent/plaintiff with the respect to the said suit premises by virtue of registered Lease Deed dated 11th June, 2018. The facts, as stated hereinabove, are disputed by learned counsel for the petitioner.

2. The respondent/plaintiff has filed a suit for eviction and recovery of arrears of rent along with mesne profits, which is pending before the concerned trial court.

3. The respondent/plaintiff, along with the main suit, filed one application under Order XV-A of Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') seeking deposit of arrears of rent



and future mesne profits. The said application was decided by the concerned trial court *vide* Impugned order dated 14th February, 2022.

The operative part of the Impugned order is read as under:

“4. The aforesaid claims of the respective parties are subject to further evaluation and they will be decided later on. However, in view of the specific admitted plea of the defendant with regard to loan transaction and payment of interest amount in the past, the defendant is directed to pay the amount equivalent to the said alleged interest (irrespective of the fact whether it was interest or rent) from the period of non-payment i.e. January 2021 till date within 30 days to the plaintiff. The defendant will also continue to pay the said amount as per agreed terms on month to month basis to the plaintiff till further order. This order has been passed to protect the interest of the plaintiff by virtue of power under Section 151 CPC r/w Order 12 Rule 6 CPC and it is subject to final decision”

4. Learned counsel for the petitioner states that the petitioner is ready to pay the amount as directed by the trial court *vide* Impugned order to the respondent/plaintiff, but said payment shall not be taken as made under the provisions of Order XV-A of the CPC.

5. The trial of the suit before the concerned trial court is at the initial stage. It is for the concerned trial court to decide the nature of legal relationship between the concerned parties on the basis of pleadings, documents and evidence to be led by the parties. Learned counsel for the respondent/plaintiff states that any observation made in this order may affect or cause serious prejudice to the rights and contentions of the respondent/plaintiff during the trial.

6. The petitioner/defendant shall continue to make the payment as directed in para 4 of the Impugned order. However, it is made clear that the payments of amount as per Impugned order dated 14th February, 2022 shall be without any prejudice to the rights and



contentions of both the parties and pleas to be raised before the trial court for disposal of the application under Order XII Rule 6 of the CPC.

7. This petition alongwith pending applications stands disposed of.

SUDHIR KUMAR JAIN, J

APRIL 12, 2022

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