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

% Judgment delivered on: 20th January, 2022

+ **FAO 251/2021 & CM. APPL. 39922/2021**

ANU RAJOTIA AND ANR Appellant

versus

RITA ALLAHABADI Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Amit Kumar, Advocate.

For the Respondent : Ms. Richa Kapoor, Ms. Saloni Mahajan, Ms. Surabhi Katyal and Ms. Shivani Sharma, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. The hearing was conducted through video conferencing.
2. Appellant impugns order dated 19.02.2021, whereby the trial court has restrained the respondent from creating any third party rights in suit property, parting with possession of the same or raising any unauthorized construction. Appellant further impugns order dated 04.09.2021, whereby appellant has been directed to deposit a sum of Rs.20,000/- per month as use and occupation charges with effect from 01.02.2020.



3. Learned counsel for the appellant submits that though appellant was inducted as a tenant but appellant is now an owner of the subject property as appellant had paid the entire sale consideration to the erstwhile owner in the year 2006 and agreement to sell etc. was executed in his favour.

4. He, however, without prejudice submits that appellant shall deposit with the trial court, the of use and occupation charges @ Rs.5500/- per month commencing from 01.12.2016 i.e., three years preceding the date of the filing of the suit and continue to deposit the same till the disposal of the suit at the said rate.

5. Learned counsel for respondent submits that arguments on application under Order XII Rule 6 have been heard and judgment reserved.

6. In view of the above, the appeal is disposed of with a direction to the appellant to deposit with the trial court, use and occupation charges @ Rs.5500/- per month commencing from 01.12.2016 till date. Appellant shall continue to deposit use and occupation charges month to month with the trial court @ Rs.5500/- per month. The amount be deposited on or before 10th day of each English calendar month.



7. The arrears be cleared by the appellant in three equal monthly installments. The first installment being paid within two weeks from today.

8. In view of the above, order dated 04.09.2021 is modified to the above extent. However, order dated 19.02.2021, whereby the appellant has been restrained from creating any third party rights, parting with possession or raising any unauthorized construction upon the subject property does warrant any inference. The same shall continue to operate till the disposal of the suit.

9. It is clarified that deposit of the amount shall be without prejudice to the rights and contentions of the parties and shall be subject to the final outcome of the suit. It is also clarified that the observations on merit in the impugned orders would be treated as prima facie and not conclusive findings of facts.

10. The appeal is disposed of in the above terms.

11. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through e-mail by the Court Master.

SANJEEV SACHDEVA, J

JANUARY 20, 2022
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