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

+ **FAO (COMM) 105/2023**

INDU BANSAL AND ANR

..... Appellants

Through: Mr.Sanjeev Ralli, Sr.Advocate with
Mrs.Stuti Gupta, Mr.Piyush
M.Dwivedi, Mr.Shubham Yadav,
Mr.Ravi Kant Yadav and
Mr.Chetanya Bawaja, Advocates.

versus

M/S APRA BUILDERS LTD AND ORS

..... Respondents

Through: None

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Date of Decision: 04th May, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

MANMOHAN, J: (ORAL)

C.M.No.22654/2023

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

FAO (COMM) 105/2023 & C.M.No.22655/2023

1. Present appeal has been filed challenging the order dated 28th January, 2023 whereby the learned District Judge has disposed of the Order XXXIX Rule 1 and 2 application filed by the appellants by directing the

appellants to deposit 50% of the alleged conversion charges claimed by respondent no.1 and to clear the alleged arrears of maintenance charges.

2. Learned senior counsel for the appellants confines his challenge to the direction to make payments of arrears of maintenance charges. He states that the learned District Judge did not take into consideration that the letter dated 27th January, 2022 filed by respondent nos.1 & 2 along with their written statement did not give details with respect to their calculation of maintenance charges to the tune of Rs.5,28,652/-. He also states that since electricity was disconnected in the suit premises on 03rd January, 2022, no maintenance charge is payable by the appellants since that date.

3. Learned senior counsel for the appellants further states that the latest bill of May, 2023 includes interest liability of Rs.4,82,000/- calculated @ 24% per annum.

4. Though we find some merit in the submission advanced by learned counsel for the appellants, yet we are of the view that there shall be significant delay if notice is issued in the present matter and on account of the said delay, the appellants shall not be able to make use of the property in question. Consequently, we asked the learned senior counsel for the appellants to re-consider his stand. After speaking to the husbands of the appellants, who are personally present in Court, learned senior counsel for the appellants fairly states that the appellants shall keep their 'powder dry' and advance all their arguments before the Trial Court at the stage of final hearing. He, however, prays that it may be made clear that the present payments are being made without prejudice to the rights and contentions of the appellants and shall be subject to further adjustment in the event the appellants succeed in the suit.

5. This Court finds that the prayer now made by learned senior counsel for the appellants is fair and reasonable. Accordingly the appellants are directed to make payment in accordance with the impugned order, without prejudice to their rights and contentions and subject to adjustment of future maintenance charges, in the event the appellants succeed in the present proceedings.

6. Moreover, keeping in view the fact the controversy involved in the present matter is rather limited in nature, this Court directs the Trial Court to dispose of the suit as expeditiously as possible preferably within one year from today.

7. With the aforesaid directions, present appeal along with pending application stands disposed of.

MANMOHAN, J

SAURABH BANERJEE, J

MAY 4, 2023
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