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

+ **C.R.P. 133/2024**

INDERJEET SHARMA & ANR. Petitioners

Through: **Mr. Sunil Lalwani, Adv.**

versus

VIJAY MALIK

..... Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **10.04.2024**

CM APPL. 21654/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

C.R.P. 133/2024 and CM APPL. 21655/2024 (Stay)

3. Petitioners, who are defendants in the suit instituted by the respondent/plaintiff seeking possession and permanent injunction in respect of the suit property, assails the impugned order dated 16.01.2024 passed by the learned ADJ-03, Central District, Tis Hazari Courts, Delhi, whereby his application under Order VII Rule 11 CPC has been dismissed.
4. None is present for the respondent/plaintiff despite sending advance notice.
5. Having heard Mr. Sunil Lalwani, learned counsel for the petitioners/defendants and on perusal of the record, at the outset, the instant civil revision preferred under Section 115 of the CPC is bereft of any merits.



6. Shorn of unnecessary details, the respondent/plaintiff has filed the instant suit alleging that he was in a settled possession and occupation of the shop in question, which was initially allotted to his mother, who expired on 14.01.2019; and that he had gone to Dubai on 19.05.2019 and came back on 18.06.2019 and it was only on 18.06.2019 that he came to know from someone that the building in question wherein the tenanted shop was located, has been demolished so much so that allegedly some stocks of goods and other important documents have been removed unlawfully by the petitioners/defendants.

7. The plea is that instead of having recourse to Section 6 of the Specific Relief Act, the respondent/plaintiff has instituted a suit for possession and permanent injunction after expiry of six months on 27.05.2022.

8. The plea by the learned counsel for the petitioners that the suit is barred in view of Section 6 of the Specific Relief Act is misconceived in law and not sustainable. In case of forcible or unlawful dispossession, a party has a remedy to come under Section 6 of the Specific Relief Act within six months of unlawful dispossession. If such recourse is not taken, the aggrieved party can also file a civil suit seeking possession and other reliefs based on any legal and sustainable right in his favour. Section 6 of the Specific Relief Act is a special remedy where the factum of forcible and unlawful dispossession is of primary consideration without looking into the right, title and interest of the aggrieved party.

9. The civil revision petition is dismissed accordingly. Nothing contained herein shall tantamount to an expression of opinion on the merits of the case.



10. A copy of this order be sent to learned Trial Court for information and record.

APRIL 10, 2024
ck

DHARMESH SHARMA, J.