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

+ **C.R.P. 327/2023, CM APPL. 58302/2023 (stay)**

PRAMOD BAJAJ

.....Petitioner

Through: Counsel for petitioner (appearance
not given)

versus

GAUTAM RANA

.....Respondent

Through: Counsel for respondent (appearance
not given)

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

04.11.2024

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CM APPL.58303/2023 (delay)

1. The Application under Section 5 of the Limitation Act has been filed on behalf of the petitioner for condonation of delay of 98 days in refilling the accompanying Petition.
2. For the reasons stated in the Application and in the interest of justice, the delay of 98 days in re-filing the Application, is condoned. The Application is allowed and disposed of accordingly.

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3. The Civil Revision Petition under Section 115 CPC has been filed to challenge the Order dated 23.03.2023 *vide* which the Application under Order 7 Rule 11 CPC filed by the petitioner (defendant), has been dismissed.
4. The petitioner/respondent had filed a Suit for Permanent Injunction,



Recovery of Possession, Arrears of Rent, Damages and Mesne Profit, on 05.12.2020. The Suit was decreed for Possession and the possession already stands handed over by the petitioner/defendant, to the plaintiff. The Suit is now pending for Recovery of Arrears of Rent/Mesne Profits.

5. The defendant filed an Application under Order VII Rule 11 CPC wherein rejection of the Plaint, was sought on the following grounds:-

- a. that the Suit has not been valued properly for the purpose of court fees;*
- b. that the Suit does not come within the preview of Commercial Courts Act;*
- c. that there is no compliance of mandatory provisions of Section 12-A of the Commercial Courts Act in regard to pre-institution mediation;*
- d. that no documents have been filed by the plaintiff/respondent in regard to the ownership of the Suit Property;*
- e. that the alleged Rent Agreement is forged and liable to be impounded under Section 33 of the Indian Stamp Act;*
- f. that Ms. Gunjan Rana including the other legal heirs of the landlord, has not been impleaded as a necessary party*
- g. that the Company of the petitioner/defendant has not been impleaded as a party even though it was paying rent to the landlord.*

6. **Submissions heard.**

7. The first objection is concerning valuation and deficit court fee. The relief that remains to be decided essentially is in respect of the Damages/Mesne Profits for which the Court Fee shall become payable after the same has been determined.



8. **The second objection** taken was of non-compliance of Section 12-A of the Commercial Court Act. However, this aspect had been taken care of vide Order dated 15.10.2022 when the parties were directed to appear before the Mediation Cell in compliance of Section 12-A of the Commercial Courts Act.

9. **The third objection** taken is that as per the Rent Deed, it was only the proprietorship concern of the petitioner that was the tenant. However, the Company has not been impleaded in the Suit. This argument cannot be more fallacious for the simple reason that the Proprietorship Firm has no independent identity but is to be sued in the name of the sole Proprietor. The petitioner admittedly is the sole proprietor and the Suit has been rightly filed in his name. This objection is without any merit.

10. **The fourth objection** taken is that all the legal heirs including Ms. Gunjan Rana of the landlord, have not been impleaded as a party. However, there is no denial that the Suit can be continued by anyone or more of the co-owners and they together represent the interest of all the legal heirs.

11. **The last objection** taken is that since the Rent Agreement is forged, it may be impounded under Section 33 of the Indian Stamp Act. There is no provision under the Stamp Act which provides that in case, a document is found to be forged, it may be impounded under Section 33 of the Stamp Act.

12. There is no merit in the present Petition, which is hereby dismissed. The Petition is disposed of accordingly along with the pending application.

NEENA BANSAL KRISHNA, J

NOVEMBER 4, 2024/RS