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

+ **RFA 664/2022, CM APPLs. 55391/2022, 9801/2023**

GULSHAN KUMAR & ORS.

.....Appellants

Through: Mr. Harpreet Singh, Mr. Gagan Kr. Singhal, and Mr. Suresh Chaudhary, Ms. Suhani Mathur and Ms. Harshita Singh, Advocates with Appellant No.1 in person.

versus

SH RAJEEV KUMAR

.....Respondent

Through: Mr. Tarun Sharma, Mr. Tushar Datta and Ms. Reena, Advocates along with Respondent in person

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

02.09.2024

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1. At the outset, learned Counsel for the Appellants submits that the order dated 22.08.2024 inadvertently records an incorrect contention with respect to the submissions of the learned Counsel for the Appellants. It is contended that the grievance of the Appellants was that Respondent filed two Applications under the same provision i.e. under Order XII Rule 6 of Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"]. While, the first one was not pressed by the Respondent, the second Application under Order XII Rule 6 CPC, was disposed by Order dated 19.11.2022 [hereinafter referred to as "Impugned Order"] without a hearing given to the Respondent. Thus, in essence, the grievance of the Appellants was that they



were not duly heard in the second Application under Order XII Rule 6 CPC which was disposed of on 19.11.2022. In the Order dated 22.08.2024 this was, inadvertently not pointed out by the learned Counsel for the Appellant.

1.1 Learned Counsel for the Respondent affirms the said statement.

2. The statement of the learned Counsel for the parties is taken on record.

3. Learned Counsel for the Appellants submits that he has returned with instructions, and that his client is willing to make a deposit in the Court.

4. Learned Counsel for the Respondent submits that, of the admitted amount of Rs. 45 lakhs, a sum of Rs. 21,14,183/- has been received by the Respondent. Thus, a sum of Rs. 23,85,817/- remains to be paid by the Appellants.

5. Learned Counsel for the Appellants submits that without prejudice to his rights and contentions and on instructions, the Appellants are willing to deposit a sum of Rs. 23,85,817/- with the Registry of this Court.

6. Learned Counsel for the parties submit that subject to the deposit, the matter be sent back for a hearing to the learned Trial Court.

7. Accordingly, with the consent of the parties, who are physically present in Court, the matter is remanded to be heard by the learned Trial Court afresh on the Application under Order XII Rule 6 CPC in Civil Suit. The proceedings will commence from the date of the Impugned Order. All rights and contentions of the parties are left open to be agitated afresh in this regard.

8. The Appellant shall deposit the amount of Rs. 23,85,817/- before the Registrar General of this Court. The amount so deposited, will abide by the orders passed by the learned Trial Court from time to time in Civil Suit No. 779/2021.



9. The Appeal is disposed of, in the foregoing terms. All pending Applications stand disposed of.
10. The matter be listed before the Trial Court on 03.10.2024.
11. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 2, 2024

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Click here to check corrigendum, if any