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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA(COMM) 415/2024 & CM APPL. 58267/2024 –Stay.

NARENDER SINGH

.....APPELLANT

Through: Mr.Yogesh Kr.Dariya with
Mr.Sanjeev Saroha, Mr.Narender Singh, Advs.

versus

ASHOK SAXENA

.....RESPONDENT

Through: Mr.Chirag Girdhar, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

24.10.2024

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1. The present appeal under Section 96 of the Civil Procedure Code read with Section 13 of the Commercial Court Act seeks to assail the judgment dated 08.07.2024 passed by the learned District Judge, Commercial Court, Tis Hazari Courts, Delhi in CS(COMM) No.578/2019.
2. Vide the impugned judgment, the learned Trial Court has decreed the suit of the respondent plaintiff in the following terms:-

“The suit is coming on this day for final disposal before me in the presence of Ld. Counsel for Plaintiff Sh. Rakesh Bhalla and Ld. Defendant Counsel Sh. Narender Singh.

It is ordered that the following reliefs are granted in favour of the plaintiff:

(a) A decree for a sum of Rs. 74,400/- alongwith interest @ 9% p.a. from the date of filing of the suit till actual realization towards recovery of arrears of rent,

(b) A decree of possession in favour of the plaintiff and against the defendant in respect of suit premises/property/shop bearing no. 302, Capital Plaza,



Inder Enclave, LSC, New Delhi- 110087 more specifically shown in red colour in the site plan attached with the suit:

(c) A decree of damages/mesne profits is passed in favour of plaintiff and against the defendant @ Rs. 15,500/- per month alongwith interest @ 9% per annum w.e.f. 3-08-2019, till actual vacant possession of the suit property is handed over to the plaintiff by the defendant.

It is to be noted that during the pendency of the case, the defendant had admittedly paid an amount of Rs. 6,91,000/- (i.e. Rs. 5,02,000/- on 10-11-2022 and Rs. 1,89,000/- on 25-01-2024) pursuant to the order dated 7-03-2022, which amount shall be first adjusted in the total amount due against the defendant.

COST OF SUIT

<i>S.No.</i>	<i>Plaintiff</i>	<i>Rs.</i>	<i>Defendant</i>	<i>Rs.</i>
1.	<i>Stamp for plaint</i>	<i>14000/-</i>	<i>Stamp for plaint</i>	
2.	<i>Stamp for power</i>	<i>2.00/-</i>	<i>Stamp for power</i>	<i>2.00/-</i>
3.	<i>Stamp for exhibits</i>	<i>--</i>	<i>Stamp for exhibits</i>	<i>--</i>
4.	<i>Pleader's fee</i>	<i>--</i>	<i>Pleader's fee</i>	<i>--</i>
5.	<i>Substance for witness</i>	<i>--</i>	<i>Substance for witness</i>	<i>--</i>
6.	<i>Commissioner's fee</i>	<i>--</i>	<i>Commissioner's fee</i>	<i>--</i>
7.	<i>Service of process/ Publication charges</i>	<i>383.00/-</i>	<i>Service of process</i>	<i>--</i>
8.	<i>Miscellaneous</i>	<i>31.00/-</i>	<i>Miscellaneous</i>	<i>117.00/-</i>
	<i>Total</i>	<i>14416/-</i>	<i>Total</i>	<i>119.00/-</i>

3. On the last date, after the matter was heard at some length, learned counsel for the appellant was granted time to obtain instructions.



Today, he submits that the appellant is willing to handover vacant possession of the suit property being 302, Capital Plaza, Inder Enclave, LSC, New Delhi to the respondent and prays for the grant of one year's time for the same.

4. Learned counsel for the respondent, who appears on advance notice, opposes this request and submits that the said period of one year, which the appellant is claiming is far too excessive, as the appellant has been paying only nominal *mesne profits* as compared to the market rate of rent for the suit property. He, however, submits that the respondent has no objection if the appellant is granted some reasonable time to handover the vacant possession of the suit property to the respondent, albeit subject to the appellant clearing all the arrears of rent, *mesne profits* along with electricity and water charges till now.
5. Having considered the submissions of learned counsel for the parties, we dispose of the appeal by granting the appellant time till 30.06.2025 to handover the vacant and peaceful possession of the suit property to the respondent, subject to his clearing the past arrears of rent, *mesne profits*, electricity and water charges in terms of the impugned order within a period of eight weeks and continuing to pay *mesne profits* @ Rs. 15,500/-, alongwith electricity and water charges, till the date he hands over vacant possession of the property.
6. We, accordingly, direct the appellant to file an affidavit, within one week from today, clearly undertaking therein that he will handover vacant and peaceful possession of the suit property to the respondent on or before 30.06.2025 as also that he will not create any third party



rights in the suit property and that he will pay the past arrears of rent, *mesne profits*, electricity and water charges on or before 31.12.2024 and shall continue to pay future *mesne profits* @ Rs.15,500/- on or before 10th of every month besides electricity and water charges.

7. The appeal is accordingly disposed of by directing that subject to the appellant filing the aforesaid affidavit of undertaking, the operation of the impugned judgment, with which we are not interfering, will remain stayed till 30.06.2025.
8. Needless to state, in case, the appellant fails to file an affidavit or fails to comply with the terms of the undertaking, the respondent will be entitled to execute the impugned judgment and decree and/or take further steps as per law.
9. At this stage, learned counsel for the appellant submits that though the appellant is using two landline telephone numbers being 011-25277487 and 011-25272598, however, as they both continue to be in the name of the respondent, he prays that the respondent be directed to transfer the said telephone numbers in the name of the appellant.
10. Learned counsel for the respondent submits that the respondent has no objection to the above and will render all necessary cooperation for transfer of the aforesaid two telephone numbers in the name of the appellant. The said statement is taken on record.

REKHA PALLI, J

SAURABH BANERJEE, J

OCTOBER 24, 2024/sr