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

+ **RFA(COMM) 447/2024**

RAJIV KUMAR

.....APPELLANT

Through: **Mr. Rahul Gautam, Adv. alongwith
appellant in person**

versus

JAWAHAR LAL VOHRA

.....RESPONDENT

Through: **Mr. Anurag Ojha, Mr. D. N.
Chaturvedi, Mr. Deepak Somani and
Ms. Chanchal Gupta, Advs.**

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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13.11.2024

**CM APPL. 66191/2024-by respondent seeking modification of order dt.
21.10.2024.**

1. This is an application filed by the respondent seeking modification of order dated 21.10.2024.
2. Learned counsel for the applicant/ respondent submits that though the present appeal was disposed of by this Court on 21.10.2024 by taking the statement of the appellant on record that he would vacate the suit property on or before 30.04.2025 and will, besides paying monthly mesne profits, pay a sum of Rs. 25 Lakhs to the respondent towards arrears of mesne profits, which amount is payable in three equal instalments as set out in para 4 of the said order, the appellant is now pursuing its suit seeking recovery of a sum of Rs. 13.50 Lakhs towards cost of renovation purportedly carried out in the suit property. This he contends was impermissible as the order dated 21.10.2024 was passed only to bring a holistic settlement of the all the disputes between the parties relating to the suit property.



3. Issue notice.

4. Mr. Rahul Gautam, learned counsel for the appellant accepts notice and submits that the arguing counsel is unavailable. We may note that despite passover, learned arguing counsel for the appellant is not available. Having perused the impugned order, we are of the prima facie view that the appellant is trying to wriggle out of his undertaking given to this Court on 21.10.2024 and is not only continuing to occupy the suit property without payment of the due mesne profits to the respondent but is also simultaneously pursuing his suit for recovery of the purported amount spend on renovation of the suit property. We are also informed that the appellant has till date not filed his affidavit of undertaking. However, since learned counsel for the appellant is stated to be not available, we are deferring hearing by directing that the application be listed on 19.11.2024 on which date the appellant will remain present in person. Further as prayed, we grant two weeks to the appellant to file reply to the application. Rejoinder thereto, if any, be filed before the next date of hearing.

5. We accordingly direct that till the next date of hearing, the proceedings in CS(Comm) 387/2024, pending before the District Judge, Commercial-06, Tis Hazari Courts, Delhi, will remain stayed. We further make it clear that no further accommodation will be granted to the appellant.

6. List on 19.11.2024.

REKHA PALLI, J

SAURABH BANERJEE, J

NOVEMBER 13, 2024/rr