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

+ **RFA(COMM) 481/2024, CM APPL. 66618/2024-Stay**

VED PRAKASH KHURANA & ORS.

.....APPELLANTS

Through: Counsel (appearance not given)

versus

RAJESH GUPTA

.....RESPONDENT

Through: Mr. Sanjay Padam Jain, Adv
salongwith respondent in person

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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27.11.2024

1. The present appeal under Section 96 of the Code of Civil Procedure, 1908 seeks to assail the judgment and decree dated 07.09.2024 passed by the learned District Judge, Tis Hazari Courts, Delhi in CS (Comm) No. 1099/2023.
2. After arguing the matter at length, learned counsel for the appellants, on instructions from appellant no.1, who is present in Court, submits that the appellants will be satisfied in case they are granted reasonable time to vacate and hand over peaceful possession of the suit premises to the respondent.
3. Learned counsel for the respondent, who appears on advance notice, submits on instructions from the respondent, who is also present in Court, that the said suggestion is acceptable to him. He, however, prays that the appellants be directed to file their undertakings with respect to their handing over vacant peaceful possession of the suit property to the respondent within the time period as this Court deems appropriate and also clear the arrears of mesne profits as also electricity and water charges.



4. At this stage, learned counsel for the appellants submits that as per the appellants the agreed rate of rent was Rs. 14,000/-, which the respondent is claiming to be Rs. 38,000/-. He submits that since this aspect is still being considered by the learned Trial Court, the appellants be permitted to pay mesne profits @ Rs. 14,000/- on or before 7th of every month alongwith the electricity and water charges for the present.

5. Having considered the submissions of learned counsel for the parties, we dispose of the appeal alongwith the pending application by granting the appellants time till 31.08.2025 to hand over the vacant peaceful possession of the suit property to the respondent, during which period the appellants will continue to pay to the respondent mesne profits@ Rs.14,000/- on or before the 7th of every month alongwith the electricity and water charges levied for the said period. This would, however, be subject to each of the three appellants filing their undertaking by way of affidavits within a period of two weeks to the effect that they shall hand over their vacant peaceful possession of the suit property to the respondent 31.08.2025. Additionally, each of the said three appellants will also undertake not to create any third party rights in the suit property.

6. We further make it clear that the aforesaid direction to pay mesne profits @ Rs.14,000/- on or before the 7th of every month would be applicable only till the passing of the final order as may be passed by the learned Trial Court in respect of the rate of rent/ mesne profits upon determination thereof, whereafter the parties will subject to any appellate remedies, be bound by the said order.

7. The appeal is accordingly disposed of by directing that subject to each of the three appellants filing the requisite affidavits of undertakings within a



period of two weeks and continuing to pay mesne profits @ Rs. 14,000/- on or before seventh of every month alongwith electricity and water charges.

8. In view of the aforesaid, the impugned judgment with which, we find no infirmity, will not be enforceable till 31.08.2025.

9. We further make it clear that in case the appellants fail to abide by their respective undertakings, the respondent will not only be entitled to execute the impugned judgment, but also be entitled to initiate proceedings under the Contempt of Courts Act, 1981.

REKHA PALLI, J

SAURABH BANERJEE, J

NOVEMBER 27, 2024/Ab