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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 178/2024, CM APPL. 74289/2024- Stay, CM APPL. 74290/2024- Exp**

ADARSH ACCOMMODATIONS PVT. LTD. AND ORS.

.....Appellants
Through: Mr. Manish Sharma, Sr. Adv with
Mr. Puneet Jaiswal and Ms. Adya
Rao, Advs

versus

SHALINI KATYAR AND ORSRespondents
Through: None

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

% **ORDER**
18.12.2024

1. The defendant's/ appellant's present appeal under Order XLIII of the Code of Civil Procedure, 1908 (hereinafter 'CPC') seeks to assail the order dated 16.12.2024 passed by the learned Single Judge in CS (OS) No. 697/2022 whereby the application of the plaintiff/ respondent being I.A. No. 46146/2024 has been allowed, and the learned Single Judge has directed the Court Receiver appointed qua the Suit Property to hand over possession thereof to the respondents during the pendency of the suit.
2. Though the learned senior counsel for the appellants does not deny that the possession of the Suit Property has been handed over to the respondents in terms of the impugned order on 17.12.2024 itself, however,



he submits that the learned Single Judge has erred in allowing the said application of the respondents without even granting any opportunity to the appellants to file a response thereto, as also to deposit the balance sale consideration with the Court.

3. At the outset, we have put to learned senior counsel for the appellants, as to how the present appeal is maintainable under Order XLIII CPC or simpliciter under Section 10 of the Delhi High Court Act.

4. After some arguments, he submits that the appellants, instead of pressing the present appeal, would approach the learned Single Judge by way of a modification application and show their *bona fide* by volunteering to deposit the balance sale consideration or the enhanced amount, as may be directed by the learned Single Judge.

5. In light of the aforesaid, the appeal is dismissed as not pressed, with liberty to the appellants to approach the learned Single Judge by way of Modification Application, which, if moved, we expect the learned Single Judge to consider on its own merits.

6. Accordingly, the accompanying applications are also dismissed.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 18, 2024/Ab