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

+ **CM(M) 3948/2024**

HARPREET

.....Petitioner

Through: **Mr. Bhuvneshwar Tyagi, Adv.**

versus

ANIL SAWHNEY & ANR.

.....Respondents

Through: **Mr. Gaurav M Liberhan, Mr. Rahul Dwivedi, Ms. Akriti Gupta & Mr. Sumant Vyas, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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15.01.2025

CM APPL. 70006/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 3948/2024 & CM APPL. 70007/2024 (Stay)

1. Respondents filed a suit for eviction and for payment of arrears of rent. The defence of the petitioner was struck off under Order XV(A) CPC by the learned Trial Court and vide order dated 02.09.2024, the petitioner was directed to hand over the possession of the suit property to the plaintiff within a month from the date of passing of the order. Such order was passed on an application filed under Order XII Rule 6 CPC.
2. Petitioner preferred a Regular First Appeal ('RFA') before the High Court wherein the RFA was dismissed as withdrawn with liberty to the petitioner to institute appropriate legal proceedings for restoration of the defence. He was further directed to vacate the subject property on or before 28.10.2024 and hand over the possession to the respondents.



3. Learned counsel for the respondents submits that possession has since been delivered.
4. Learned counsel for the respondents further submits that since possession has already been handed over, the case is pending in the learned Trial Court only on limited question of grant of damages/mesne profit.
5. The petitioner gave an undertaking dated 20.04.2024 before the learned Trial Court wherein he had undertaken to pay a sum of Rs 5 Lakhs within twenty days. However, it is submitted on behalf of the petitioner that an application has already been filed for withdrawal of such undertaking. He further submits that petitioner shall file an application for restoration of the defence in terms of liberty granted to him in RFA No. 722/2024.
6. After part submissions, learned counsel for the petitioner submits that he may be permitted to make his submissions for withdrawal of undertaking and for restoration of the defence before the learned Trial Court and subject to such liberty, he seeks permission to withdraw the present petition. Statement made by the learned counsel on behalf of the petitioner is taken on record and considering the above circumstances, the petition is dismissed as withdrawn with liberty as prayed for.
7. All rights and contentions of the parties are kept reserved.
8. Copy of this order be given dasti under the signatures of Court Master.

RAVINDER DUDEJA, J

JANUARY 15, 2025/sk/n