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

% **Date of Decision: 07th May, 2025**

+ **CM(M) 11/2025 & CM APPL. 334/2025**

SH. GAUTAM SETHI & ANR.Petitioner

Through: Mr. Mohit Jolly with Mr. Ayush Gupta
and Ms. Shikha Bhardwaj, Advocates.

versus

SH. SAURABH SINGAL & ANR.Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Learned counsel for respondent/plaintiff also appears on advance notice.
2. Plaintiff herein is defending a suit which seeks recovery of possession, arrears of rent/damages etc.
3. Admittedly, the possession has already been received by the plaintiff on 27.03.2021.
4. The learned Trial Court while considering the application moved by the plaintiff under Order XV A CPC directed the defendants to deposit the following amount:-

“(i) Outstanding rent from the month of September, 2020 till February, 2021 amounting to Rs. 3,52,350/-

(ii) Rent for the month of March onwards, if, the possession is not handed over to the plaintiffs@ Rs. 58,725/- per month.

(iii) Mesne profits from 05.10.2020 till 16.02.2021 of Rs. 6,75,000/-.



(iv) Mesne profits @ Rs. 5000/~ per day from 17.02.2021 till the date of handover of possession by the defendants to the plaintiffs.

(v) Rs. 1, 75,769/- towards arrears of CAM Charge including interest payable by the defendants to the Vinayak facility Management Pvt. Ltd. in terms of the agreement.”

5. The abovesaid order dated 20.07.2022 was, partially, reviewed on 24.09.2024.

6. Fact, however, remains that despite there being a partial review in favour of the defendants, the amount has, so far, not been deposited by the defendants.

7. The present petition, merely, seeks to challenge order dated 24.09.2024.

8. Learned counsel for petitioner, however, submits that subsequently, when the matter was taken up by the learned Trial Court on 01.03.2021, on account of the non-deposit of the abovesaid amount, its defence has also been struck off.

9. He submits that he, on instructions, does not challenge the impugned order anymore and merely, seeks restoration of his defence. He also submits that as per the instructions, the amount in question would be deposited before the learned Trial Court on or before 01.07.2025.

10. Learned counsel for respondent/plaintiff submits that though the defendants should not be given any indulgence, in view of the aforesaid statement, made at the Bar by learned counsel for petitioner, he leaves it to



this Court to pass appropriate order.

11. Undoubtedly, the subsequent order, whereby the defence was struck off, is not under challenge before this Court but, keeping in mind the overall facts of the case, and after hearing learned counsel for the plaintiff, the present petition is disposed of with direction that the defence of the defendants stands restored, subject to the condition that they would deposit the arrears of rent in terms of the abovesaid two orders i.e. order dated 20.07.2022 read in conjunction with 24.09.2024 on or before 01.07.2025.

12. For causing delay in the matter, the petitioners are also burdened with the cost of Rs. 50,000/- which shall be paid to plaintiff or counsel for the plaintiff on or before 01.07.2025 before the learned Trial Court.

13. Such deposit be made.

14. Learned Trial Court may proceed further with the matter in accordance with law and in anticipation of compliance of the deposit of the arrears, it would also permit the defendants to participate in the suit.

15. Petition stands disposed of in aforesaid terms.

16. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 7, 2025/sw/PB