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

+ RSA 24/2023, CM APPL. 5153/2023

PREM SHANKAR PANDEY

.....Appellant

Through: Mr. ___ Counsel (Appearance not given)

versus

MS. SHAKUNTA BAIRWA

.....Respondent

Through: Mr. S.C. Singhal and Mr. Parth Mahajan, Advocates

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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16.01.2026

1. Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) has been filed on behalf of the Appellant to challenge the Order dated 22.10.2022 to the extent of mesne profits granted @ Rs.10,000/- per month by the learned Trial Court *vide* judgment dated 28.05.2018 and the judgment being upheld in Regular First Appeal *vide* judgment dated 22.10.2022.

2. Learned Counsel for the Appellant has challenged the finding on the mesne profit on the ground that there was no specific issue framed and there was no specific evidence led on this aspect. The onus was on the Respondent/landlord which he has failed to discharge.

Submissions heard and record perused.

3. Learned Trial Court had framed a specific issue No. (d) in respect of entitlement of the landlord to the damages. It had essentially while deciding this issue, reliance was placed on cross-examination of DW-1 who had admitted that in respect of adjacent show, the rent was of Rs.300/- per day.



4. Considering the admission, the landlord was held entitled to Rs.10,000/- per month as damages from the date of filing of the Suit till the date of handing over of the possession.
5. The learned District Judge in Regular First Appeal RCA No. 64/2018, had considered this aspect and endorsed the findings of the learned Trial Court by observing that while the landlord had claimed the rent to be Rs.10,000/- per month, the same stood endorsed from the admission of the tenant in the cross-examination. Consequently, the findings of the learned Trial Court of granting damages @ Rs.10,000/- per month was upheld.
6. Learned Counsel for the Appellant is again raising the same question of fact that there was no cogent evidence to prove the rate of rent. The Plaintiff has not examined the shop owners/tenants of the neighbouring shops to prove the rate of rent.
7. This argument essentially is without any merit in the light of the admissions made by the Appellant/tenant in his cross-examination. Furthermore, it is a challenge on facts and not on any question of law. This is the Second Regular Appeal and the same cannot be entertained on the facts which are sought to be reagitated.
8. There is no merit in the Appeal, which is hereby dismissed alongwith pending Application.
9. The landlord is at liberty to move an appropriate Application to get the deposited amount released from the Executing Court in compliance of Order dated 03.02.2023.

NEENA BANSAL KRISHNA, J

JANUARY 16, 2026

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