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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 381/2022, CM APPL. 35374/2022 (for staying the execution of
the impugned Order dated 06.05.2022)
MOHD SALIM JAFARAppellant

Through: Mr. Tarunesh Kumar & Mr. Rajesh
Tiwari, Advocates.

versus

SH RAJNISH VIRMANI & ANR.Respondents
Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **15.04.2026**

1. Learned counsel for the Appellant, has addressed the arguments.
2. None is present on behalf of the Respondents.
3. Appeal under Section 96 read with Section 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Appellant against the Judgment and Order dated 06.05.2022 whereby the Suit of the Plaintiff for Possession, has been decreed while the Suit is still pending for Arrears of Rent, Electricity Charges, Damages, Mesne Profits, Permanent and Mandatory Injunction, before the learned Trial Court.
4. The Plaintiff submits that the Appellant was inducted as a tenant *vide* Lease Deed @ Rs.2,50,000/- per year, dated 16.03.2017, which was not a registered document. The Case of the Appellant is that during the currency of tenancy, two MOUs were executed, one dated 05.05.2017 whereby permission was taken by the landlord for carrying out the renovations in the basement. The second MOU dated 25.08.2017 was again executed between the parties wherein it was stated that the Appellant had incurred expenses of



Rs.43,27,000/- in the renovations and that the tenant shall be entitled to recovery of this amount at the time of vacation of the Property.

5. The learned District Judge *vide* Judgment dated 06.05.2022, has decreed the Suit for Possession. Learned counsel for the Appellant submits that the possession has been taken on 06.05.2022. He has no serious challenge to the decree of Possession except to the observations made in respect of the two MOUs and that those observations may be clarified as it may impact the claim of the Appellant, to contest the claim for Mesne Profits/rent or to seek recovery of this amount, in terms of the MOU dated 25.08.2017.

Submissions heard and the record perused.

6. None is present on behalf of the Respondents, who are proceeded *ex-parte*. The learned Trial Court has made certain observations in Paragraph 12 of the Judgment wherein it is observed that in the circumstances claimed by the Plaintiff, it is a mortgage transaction, which is not admissible in the absence of registration of the mortgage deed as per the provisions of the Transfer of the Property Act, 1882. Since the MOU was not issued to be considered while passing the decree of possession, the said observations may be taken as obiter and may not influence the learned District Judge while considering the issues on Mesne Profits, Rent, Electricity Bills etc.

7. The Appeal is disposed of with these observations. The pending Application also stands disposed of.

NEENA BANSAL KRISHNA, J

APRIL 15, 2026/RS