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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 914/2023, CM APPL. 59003/2023 (stay)
SANDHYA VERMA & ANR.Appellants
Through: Mr. Karan Luthra, Advocate.

versus

SHIV CHARAN VERMARespondent
Through: Counsel for Respondent (appearance
not given).

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
21.01.2026

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RFA 914/2023

1. Regular First Appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Appellants, to challenge the Judgment and Order dated 25.07.2023 passed by the learned ADJ-04, South District, Saket Courts, New Delhi whereby the Suit of the Respondent/Plaintiff had been decreed for Possession and unauthorised user charges @ Rs.5,000/- per month, till the peaceful and vacant possession was handed over to the Plaintiff/Respondent.

2. Learned counsel for the Appellants submits that the possession has been handed over by the Appellant on 31.03.2024. The only grievance that survives in the present Appeal is in respect of *Mesne Profits*. It is submitted that the Appellant is the son of the Respondent, who since birth had been residing with him. The property in question is a DDA Flat and on the roof, one small room was constructed by the appellant for which, the Appellant



had borrowed about Rs.2,00,000/- from his brother-in-law. It is further submitted that this room was unauthorised and no evidence was led about user charges by either party, despite which the unauthorised user charges have been granted @Rs.5,000/- per month. It is submitted that even if a judicial Notice is taken, the small unauthorised room would not get more than Rs.2,000/- per month.

3. Reliance is placed on behalf of the Appellants on Nawal Kishore Gupta vs. Employees State Insurance Corporation; Madan Mohan and Anr. vs. Chander Bhan and Anr. and Martin and Harris Private Limited and Anr. vs. V. Rajendra Mehta and Ors.

4. **The Written Synopsis** have been filed on behalf of the Respondent wherein it is submitted that the house rent for the DDA Flat in the locality of Shahpur Jat is Rs.14,000/-, without electricity and water charges for one room set with attached bathroom on second floor. Copy of the Rent Agreement dated 13.04.2024 in respect of the property bearing No.157-C, Second Floor, DDA Flats, Shahpur Jat, has been annexed along with the Written Submissions.

5. Reliance is also placed on behalf of the Respondent on Marshall Sons and Co. (I) Ltd. vs Sahi Oretrans (p) Ltd. and Anr, (1999) 2 SCC 325; M/s Atma Ram Properties P) Ltd. vs M/s Federal Motors Pvt. Ltd. and Parvesh Kumar Verma vs. Kailash Narain Malhotra.

6. **Submissions heard and the record perused.**

7. It is indeed a sad Case where the father was compelled to file a Suit for Possession and unauthorised user and occupation charges, against his own son and daughter-in-law. Not only this, the Suit got filed in June, 2016 and has ended in a Judgment only in July, 2023. Unfortunately, this being a



family matter, the Appellant instead of respecting the will of the father, chose to contest the Suit since 2016, and faced an eviction Order. He surrendered the possession on 31.03.2024.

8. Now again, he is contesting the unauthorised user and occupation charges, which have been granted @Rs.5,000/- per month. Though, the evidence has not been led by either party, it cannot be overlooked that the Property in question is one room on second floor where admittedly, the Appellant had resided with his family for long, till the handed back the possession on 31.03.2024. Though, there is no evidence was led by the parties, learned Counsel for the Respondent has annexed a Lease Deed to claim that the present market rate is about Rs.20,000/- per month.

9. It is settled proposition of law that the documents being filed in the Appeal, without being tendered in the evidence, cannot be considered at this stage. However judicial notice can be taken that suit property is one room on second floor in Shahpur Jat, Hauz Khas. Considering the locality, it cannot be said that the unauthorised occupation charges granted @Rs.5,000/- per month, are onerous or excessive or are not justified in the given circumstances.

10. There is no merit in the Appeal, which is hereby dismissed and disposed of accordingly. The pending Application also stands disposed of. However, this does not close the door for the Appellant, to settle the matter with the Respondent, who is none other than the father in the Execution proceedings or out of the Court.

NEENA BANSAL KRISHNA, J

JANUARY 21, 2026/RS