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

CNR No. DLHC010109292026

+ **RFA 265/2026**

RAJEEV JAIN & ANR.

.....Appellants

Through: Mr. Suneel Dalal, Sr. Advocate with
Mr. Rohit Priya Ranjan, Mr. Gaurav
Agrawal, Ms. Ritika Rani, Advocates

versus

GULSHAN KUMAR JAIN (SINCE DECEASED)

THROUGH LR DEEPAK JAIN

.....Respondent

Through: Mr. Ravi Dev Sharma, Ms. Ritika
Tawar, Mr. Prince Sharma, Advocates

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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31.08.2026

CM APPL. 58368/2026

1. Allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL. 58366-58367/2026

3. Applications under Section 151 of the Code of Civil Procedure, 1908 (CPC) have been filed on behalf of the Appellants seeking clarification of the Order dated 23.03.2026 whereby both the Appellants had undertaken to deposit Rs.14,500/- p.m. in terms of the Order of the learned District Judge, but there was no order made in respect of the arrears of mesne profits for which the execution is pending and for stay of the execution proceedings, respectively.
4. It is submitted that the order be clarified to stay the recovery of



arrears of the charges as well.

5. On advance notice, learned Counsel for the Respondent has appeared and submits that the Application was filed under Order XXXIX Rules 1 & 2 CPC and not even under Order XLI Rule 5 CPC. Notwithstanding on the formalities the impugned judgment, as prayed for by the Appellants, was stayed limited to the dispossession and also the Appellants undertook to pay the future charges in the sum of Rs.14,500/- p.m. However, there was neither any prayer nor relief granted in respect of the arrears of the mesne profits for institution of the Suit.

6. Considering the nature of controversy in the present Appeal, the Appellants are directed to deposit 50% of the arrears of mesne profits/user and occupation charges, subject to adjustment of the amount, which has already been deposited within 06 weeks with the learned Registrar, which be converted into an interest-bearing FDR on auto renewal mode, subject to which the operation of impugned judgment and decree is stayed.

7. The Applications stand disposed of accordingly.

NEENA BANSAL KRISHNA, J

AUGUST 31, 2026

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