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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 109/2020 and I.A. 3432/2020, 11555/2020, 9527/2021,**
2148/2023, 21331/2023
SHRI NARESH KUMAR Plaintiff

Through: Mr. Bharat Bhushan Gupta and Mr.
Gaurav Singh with Plaintiff in
person (M: 9711925013).

versus

SHRI KRISHAN CHAUHAN Defendant
Through: Appearance not given.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **14.03.2024**

1. This hearing has been done through hybrid mode.

I.A. 11555/2020 (for directions)

2. This is an application on behalf of the Plaintiff seeking fresh notice in this matter. The fresh summons and notice has been issued on 7th December, 2020. The application is infructuous and is accordingly disposed of.

I.A. 2148/2023 (for directions)

3. This is an application seeking filing of the certified copies of the suit bearing no. **CS(COMM) 469/2021** titled **Krishan Chouhan v. Naresh Kumar**, filed in the District Court Rohini, North District in view of the order passed above transferring the said suit to this Court, the application is disposed of as infructuous.

I.A. 21331/2023

4. This is an application filed under Order XV-A of CPC seeking permission to the Plaintiff to withdraw the monthly rent being deposited by



the Defendant-Tenant. The case of the Plaintiff is that the premises was given on lease by the Plaintiff.

5. The case of the Defendant, however, is that there was an agreement to sell which was executed.

6. The amount of Rs.75,000/- month has been directed to be deposited with the worthy Registrar General of this Court from 18th December, 2019 till 31st March, 2022 and the Defendant is also to continue paying the said amount in terms of the order dated 1st April, 2022.

7. As per the Registry's noting, some amounts have already been deposited by the Defendant and insofar as the arrears are concerned, Id. Counsel for the Defendant submits that he still has time to deposit the same.

8. Considering that the possession of the property is with the Defendant, the Plaintiff cannot be left without any compensation for the continued occupation by the Defendant.

9. Accordingly, the Plaintiff is permitted to withdraw the monthly amounts being deposited in this Court subject to giving an affidavit of undertaking stating that he would refund the same, if so, directed by the order of this Court.

10. An affidavit to this effect shall be filed within two weeks, after which, the Registry shall credit the amounts deposited by the Defendant in favour of the Plaintiff subject to deduction of any TDS on the interest component as the amount is kept in an FDR.

11. Application is disposed of in these terms.

I.A. 3432/2020 (for stay)

12. The interim order dated 13th March, 2020 shall continue to operate during the pendency of the suit. Application is disposed of.



I.A. 9527/2021 (u/s. 8 of the Arbitration and Conciliation Act) & CS(COMM) 109/2020

13. This is an application filed under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter. '*the Act*') seeking reference of disputes to the arbitration. According to the Defendant, the rent agreement dated 8th April, 2019 consists of an arbitration clause and thus the disputes deserve to be referred to arbitration.

14. It is not in dispute that the Defendant himself has filed a suit for specific performance of an alleged agreement to sell dated 25th December, 2019 which is pending before the District Judge (Commercial Courts) North Rohini Delhi being **CS(COMM) 469/2021** titled ***Shri Krishan Chauhan v. Shri Naresh Kumar***.

15. Considering that the dispute in the said suit is also relating to the same property, the prayer for reference to arbitration cannot be agreed to at this stage.

16. However, in order to avoid multiplicity of proceedings and conflicting judgments, exercising powers under Section 24 of the CPC, it is deemed appropriate to transfer the above-mentioned suit- **CS(COMM) 469/2021** to be listed along with the present suit.

17. The Section 8 application under the Act shall be considered after the documents and files of the said suit - **CS(COMM) 469/2021** are received by this Court. Orders on the present application are accordingly deferred at this stage.

18. Let the record of the said suit - **CS(COMM) 469/2021** titled ***Shri Krishan Chauhan v. Shri Naresh Kumar*** pending before the ***District Judge (Commercial Courts) North, Rohini, Delhi*** be requisitioned and the



same be registered as a suit in this Court. The said suit shall also be listed with the present suit.

19. List before the Joint Registrar for any further proceedings on 6th May, 2024.

20. List before the Court on 7th August, 2024.

PRATHIBA M. SINGH, J.

MARCH 14, 2024

Rahul/bh