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

+ **CS(COMM) 109/2020 and I.A. 7125/2024**

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: Mr. B.N. Garg Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **28.03.2024**

1. This hearing has been done through hybrid mode.

I.A. 7125/2024 (taking on record the affidavit)

2. This is a suit filed by the Plaintiff seeking possession and injunction with respect to the property bearing no. 16, area 250 sq. mtrs. in Pocket-G, Sector-2, situated at Bawana, DSIIDC Industrial Area, Bawana, Delhi-110039 (hereinafter referred as the '*suit property*'). The Plaintiff also seeks a sum of Rs. 2,25,000/- as arrears of rent and damages since 18th February, 2020.

3. The present application has been filed to place on record the affidavit of undertaking of the Plaintiff in terms of the order dated 14th March, 2024, pertaining to the withdrawal of the monthly amount being deposited by the Defendant-Krishna Chauhan as per order dated 1st April, 2022. By the said order, in **I.A.21331/2023**, the Plaintiff has been permitted to withdraw the monthly amounts subject to giving an undertaking stating that he would



refund the same, if directed by the Court. The operative portion of the said order reads as under:-

“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.”

4. Advance copy of this application has been served to Mr. B.N. Garg, Id. Counsel for the Defendant. However, there is no appearance. The



affidavit of undertaking has been perused. As per the said undertaking, the Plaintiff has agreed to refund the amount which may be withdrawn by him, if so directed by Court. The relevant portions of the undertaking are set out below:-

“6. That on 14.03.2024 the Hon’ble High Court in I.A. No. 21331/2023 in CS(COMM) 109 OF 2020 aforesaid, the Applicant / Plaintiff was permitted to withdraw the monthly amounts being deposited in this Court subject to giving an affidavit of undertaking stating that he /the Applicant/Plaintiff would refund the same, if so, directed by the order of this Court And An affidavit to this effect to be filed which, the Registry shall credit the amounts deposited by the Defendant/Krishan Chouhan in favour of the Applicant/Plaintiff subject to deduction of any TDS on the interest component as the amount is kept in an FDR.

7. That the deponent/Plaintiff now in compliance of the order dated 14.03.2024 in I.A. No. 21331/2023 the Applicant/Plaintiff is submitting his Affidavit of undertaking stating that he (Plaintiff/ Naresh Kumar) would refund the same if so, directed by the Hon’ble Court.

8. This Hon’ble Court may kindly be pleased to take on record the Affidavit of the Plaintiff as compliance of the order dated 14. 03. 2024 and the Registry may be directed to credit the amounts deposited by the Defendant/ Krishan Chauhan in favour of the Plaintiff/Applicant subject to the deduction of any TDS on the interest component as the amount kept in the FDR(s) as per rule.

9. And. the deponent/Applicant/ Plaintiff is ready to comply with any other terms or order in compliance of the above order dated 14.03.2024 passed by the Hon’ble High Court in the matter.”



5. The above undertaking is accepted as an unconditional undertaking given by the Plaintiff.

6. In view thereof, the undertaking having been accepted, the Registry is directed to credit the entire rental amount which has been deposited by the Defendant with the Registrar General to the Plaintiff along with interest which has been accrued thereon (minus TDS on the interest component). The same shall be credited directly into the bank account of the Plaintiff subject to the condition that if the Court directs refund, the same shall be refunded by the Plaintiff. Details of the bank account of the Plaintiff be furnished to the Registry.

7. Application is disposed of.

CS(COMM)-109/2020

8. List before the Joint Registrar on 6th May, 2024 *i.e.*, the date already fixed.

9. List before Court on 7th August, 2024 *i.e.*, the date already fixed.

PRATHIBA M. SINGH, J.

MARCH 28, 2024

mr/ks