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

+ **RFA 450/2019 & CM APPLs. 22687/2019, 2419/2024**

SHEELA DEVI (DECEASED) THR LRSAppellant

versus

VIKAS MOHAN (DECEASED) THR LRSRespondent

+ **RFA 454/2019 & CM APPL. 22767/2019**

SHEELA DEVI (DECEASED) THR LRSAppellant

versus

VIKAS MOHAN (DECEASED) THR LRSRespondent

Appearance:- Mr. Prashant Gupta, Advocate for Appellant in Item Nos. 2 & 3.
Mr. Harshit Aggarwal, Mr. Vidit Garg & Mr. Ruby Samal, Advocates for Respondents in Item No. 2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **18.11.2024**

1. These appeals are listed for consideration of the applications for stay filed by the appellant and for the application for vacation of stay filed by the respondent.

2. The appeals are directed against a common judgment dated 22.11.2018, passed in suits filed by the parties against each other. The final relief granted was a decree of possession in favour of the original respondent, in respect of Upper Quarter No. 256, consisting of one room and kitchen, in property No. D-256, West Patel Nagar, New Delhi, and *mesne* profit at the rate of ₹2,000/- per month with effect from



22.07.2009 until payment, alongwith interest thereupon.

3. By an order dated 27.05.2019, operation of the judgment and decree was stayed.

4. Mr. Harshit Aggarwal, learned counsel for the respondent, submits that, as a result of the order of stay, execution of the monetary part of the decree [with regard to *mesne* profits] cannot proceed, and the appellants continue to enjoy possession of the property, without payment of any occupation charges, despite a decree of possession against them.

5. Learned counsel for the appellants seeks time to file a reply to the application for vacation of stay. In the reply to be filed by the appellants, they will clearly state as to whether the property is in their occupation.

6. It *prima facie* appears to me that, rather than disturbing the appellants' possession during the pendency of the appeal, it would be appropriate to direct the deposit of *mesne* profit/occupation charges. In the event, the appellants are successful in the appeal, the amounts can be restored to them, but would be available to restitute the respondent in the event, the appeal is unsuccessful. Learned counsel for the parties will make their submissions on this aspect also, on the next date of hearing.

7. Reply to the application may be filed within two weeks. Rejoinder thereto, if any, may be filed within one week thereafter.

8. List on 22.01.2025.

PRATEEK JALAN, J

NOVEMBER 18, 2024

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