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

+ **RC.REV. 197/2022**

**VIJAY MITTAL & ANR.**

..... Petitioner

Through: Mr Satyam Thareja with Mr  
Pratyaksh Sikodia, Advs.

versus

**SANJEEV KUMAR & ORS.**

..... Respondents

Through: Mr Durgesh Rao, Mr Manish Kumar,  
Mr Sahil Singh and Mr Amit Saxena,  
Advs. for R-1 & R-2.

**CORAM:**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**ORDER**

**01.02.2024**

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[Physical Hearing/Hybrid Hearing (as per request)]

**CM APPL. 4663/2023 (for use and occupation charges)**

1. Heard. The present application has been brought by the respondent/landlord, claiming use and occupation charges at a rate of Rs.50,000/- per month. The respondent/landlord has placed reliance on lease deed of a similarly placed property whereby the rent fixed between the parties in the year 2016 was Rs.40,000/- per month. Besides, it is stated on behalf of respondent/landlord that since the year 2012, the petitioner/tenant has not paid even the admitted rent. On the other hand, learned counsel for petitioner/tenant placed reliance on a judicial order dated 29.04.2019 passed by a coordinate bench in R.C.REV.261/2019 whereby use and occupation charges at a rate of Rs.10,000/- per month were fixed. In rebuttal, learned counsel for respondent/landlord pointed out that the property which was



before the coordinate bench in R.C.REV.261/2019 is not similarly placed to the subject premises of the present case insofar as the former was inside a lane while the subject premises is on main Arya Samaj Road, which is a commercial area. Further, it is contended on behalf of respondent/landlord that the rate of Rs.40,000/- per month mentioned in the similarly placed lease deed pertains to the year 2016, so the annual enhancement also needs to be kept in mind while arriving at use and occupation charges.

2. Undisputedly, there cannot be any mathematical formula to quantify the use and occupation charges. However, the estimation has to be on the basis of some objective criteria.

3. At this stage, learned counsel for petitioner/tenant on instructions of his client present in court submits that the petitioner/tenant is agreeable to pay a sum of Rs.40,000/- per month towards use and occupation charges but he may be allowed to clear the arrears in two equal instalments, payable on 01.06.2024 and 01.09.2024.

4. Keeping in mind the aforesaid, with consent of both sides the application is allowed, thereby directing the petitioner/tenant to pay use and occupation charges to the respondent/landlord at a rate of Rs.40,000/- per month for the period from 22.08.2022 (when interim protection was granted) onwards till disposal of the petition. The running use and occupation charges shall be paid on or before 7<sup>th</sup> day of each calendar month and arrears thereof shall be paid by way of two equal instalments out of which first instalment shall be paid on or before 01.06.2024 and the next instalment shall be paid on or before 01.09.2024. For the purposes of payment, the respondent/landlord shall place on record particulars of his bank account within three days after supplying advance copy to learned counsel for



petitioner/tenant.

**CM APPL. 36161/2022 (stay)**

5. In view of above order, subject to the petitioner/tenant ensuring strict compliance as regards use and occupation charges, operation of the impugned eviction order shall remain stayed till disposal of this revision petition. It is made clear that in case of any violation of this order as regards use and occupation charges, the protection granted to the petitioner/tenant shall stand withdrawn. The application, accordingly stands allowed.

**RC.REV. 197/2022**

6. List for final arguments on 09.07.2024.

**GIRISH KATHPALIA, J**

**FEBRUARY 1, 2024/RV**

*Click here to check corrigendum, if any*