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

+ **CS(COMM) 549/2021**

VINAY KUMAR DATT & ANR.

..... Plaintiffs

Through Mr.Sandeep Bajaj, Mr.Soayib
Qureshi, Advs.

versus

SHRI SUDHIR SACHDEVA & ORS.

..... Defendants

Through Nemo

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **07.03.2022**

I.A. No.2685/2022 (u/Order VI Rule 17 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Amendment of Complaint)

This is an application seeking amendment of the suit.

As summons are yet to be issued to the defendants, amendment is allowed. Amended complaint is taken on record.

Application stands disposed of.

I.A. No.2684/2022 (u/Order XI Rule 1 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Placing on Record Addl. Documents)

This application has been filed praying for taking the additional documents on record.

As amended complaint is taken on record, application is allowed and documents are taken on record.

Application stands disposed of.

I.A. No.14179/2021 (u/Section 151 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Condonation of Delay in Re-filing)

Learned counsel for the plaintiff submits that the suit is otherwise within the period of limitation even if the delay in re-filing is counted



therein.

In view of the averment and subject to all just exceptions, the delay in re-filing the suit is condoned.

The application stands disposed of.

CS(COMM) 549/2021 & I.A. Nos.14177/2021 (u/Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Temporary Injunction), 2683/2022 (u/Order XXXIX Rule 10 of the Code of Civil Procedure, 1908 on b/o Plaintiff for Direction to Defendant to Deposit Rent etc.)

1. Let the plaint be registered as a suit.
2. Issue summons and notice on the applications to the defendants through all permissible modes, returnable on 19th July, 2022.
3. The written statement to the suit and the reply to the application be filed by the defendant within thirty days from the date of the receipt of summons. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiffs, failing which the written statement shall not be taken on record.
4. Plaintiffs shall be at liberty to file replication, if any, to the written statement and rejoinder to the reply filed by the defendants to the application within thirty days from the receipt of the written statement/replies. Replication shall also be accompanied by an affidavit of admission/denial of the documents of the defendants, failing which replication shall not be taken on record
5. It is the case of the plaintiffs that the suit property being 29, South Patel Nagar, New Delhi-110008 had been rented out by the father of the plaintiff no. 1 to late Trilok Nath Sachdeva and Mr.Surender Kumar Sachdeva vide Lease Agreement dated 10.02.1968 on a monthly rent of



Rs.1,450/-. The property has been later mutated in favour of the plaintiffs and the brother of the plaintiff no.1 namely Mr.Rajiv Kumar.

6. The plaintiffs had earlier filed a suit for eviction being Suit No.113/1975 before the Court of the learned Additional Rent Controller, Delhi, which was settled between the parties terms whereof were recorded in the order dated 04.05.1990. The plaintiffs claim that the defendants last paid the rent of Rs.1,66,666/- to the plaintiffs in the month of April, 2020. In support of such claim, learned counsel for the plaintiffs has drawn my attention to the Form 26AS of Income Tax Act, 1961 for the Assessment Years 2019-20 and 2020-21. He contends that the amount paid by the defendants is also duly reflected in the bank statement for the account maintained by the plaintiffs in the HDFC Bank. He submits that in spite of notice of demand dated 09.11.2020, the defendants have not cleared the arrears of rent and are not paying the current rent to the plaintiffs.

7. Keeping in view the statement made, the defendants are directed to deposit with this Court the admitted dues as also the admitted current payable rent for the premises within four weeks of receipt of notice of this order. The defendants shall also keep depositing the admitted monthly rent with this court.

NAVIN CHAWLA, J

MARCH 7, 2022/Arya/U.