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

+ RC.REV. 225/2022 & CM APPL. 40904/2022

GAJRAJ SINGH(SINCE DECEASED)

KAMALJIT SINGH

..... Petitioner

Through: Mr. Jagjit Singh and Mr. Preet Singh,
Advocates.

versus

SH. RAJKUMAR & ORS.

..... Respondents

Through: Ms. Manisha Saroha and Mr. Vijay
Siwach, Advocates.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **29.03.2023**

CM APPL. 51941/2022

1. The present revision petition has been filed by the Petitioner, tenant assailing the eviction order dated 30.03.2022 ('impugned eviction order') passed by the Trial Court whereby the impugned eviction order was passed in favour of the Respondents, landlords with respect to one portion open courtyard towards south on ground floor, in property bearing No. B-9, Rewari Line, Industrial Area, Phase II, Mayapuri, New Delhi ('tenanted premises') ad measuring 55.3'x15'. It is admitted by the Petitioner that the open courtyard has since been covered with a tin shed roof.

2. This application has been filed by the Respondent, landlord seeking fixation of use and occupation charges of the tenanted premises.

2.1. The Respondent, landlord has relied upon registered rent deed dated



13.12.2021 in regard to a commercial premises located in the same market area, wherein, second floor of the built-up property bearing No. C-148, ad measuring 4,200 sq. ft. situated at Maya Puri, Phase II, Industrial Area, New Delhi, has been let out for monthly rent of Rs. 92,600/-. The rate of rent as per the said lease deed is about Rs. 22.04 per sq. ft.

2.2. The learned counsel for the Respondent seeks fixation of use and occupation charges at the said rate of Rs. 22.04 per sq. ft.

3. In reply, the learned counsel for the Petitioner states that the tenanted premises ad-measures approximately 829.5 sq. ft. however, it is a temporary structure with a tin-shed roof and therefore, he states that, the quality of construction of the tenanted premises cannot be compared with the commercial premises, which forms the subject matter of the rent deed dated 13.12.2021.

3.1. He has placed on record photographs comparing the property which is subject matter of the rent deed and the tenanted premises.

3.2. Reply to the said application has been belatedly on 29.03.2023, copy thereof has been handed over during the course of hearing. Let the said reply be placed on record.

4. This Court has considered the submissions of the parties; in view of the distinctive features pointed out by the Petitioner, tenant, the rate of rent for the tenanted premises is fixed at Rs. 15 per sq. ft.

5. Accordingly, the monthly use and occupation charges of the tenanted premises is fixed at, a rounded of figure of, Rs. 12,500 per month. The current use and occupation charges for the month of April 2023 shall be paid on or before 07.04.2023 and so on.

6. The Petitioner is also liable to pay arrears of use and occupation



charges with effect from date of the eviction order i.e., 30.03.2022 effective from 01.04.2022 till March, 2023. The said arrears of Rs. 1,50,000/- (Rs. 12,500 x 12 months) shall be paid by the Petitioner in two equal installments payable on 21.04.2023 and 12.05.2023.

7. The learned counsel for the Respondent states that the admitted rent of Rs. 550/- per month has not been paid by the Petitioner, tenant since October, 2013. There are therefore arrears of 101 months i.e., from October, 2013 until March, 2022. The learned counsel for the Petitioner states on instruction that the said arrears of outstanding rent of Rs. 55,550/- will be cleared on or before 31.05.2023.

8. The arrears of rent, arrears of use and occupation charges and current use and occupation charges will be paid into bank account of the Respondent. The details of the bank account of Respondent are as under:

Mr. Raju Tanwar
A/C 1158105520
IFSC CBIN0282586
Central Bank of India, Branch Anand Parbat,
New Delhi, 110005

9. The learned counsel for the Petitioner states that Petitioner shall make payment of the arrears of rent, arrears of use and occupation charges and the current use and occupation charges without prejudice to the pleas and submissions of the Petitioner raised in the present petition and subject to final outcome of this petition. The said statement is taken on record.

10. With the aforesaid directions the present application is allowed.

CM APPL 40905/2022(for stay)

11. The operation of the eviction order dated 30.03.2022 has been stayed *vide* interim order dated 28.09.2022. In view of the directions passed in CM



APPL. 51941/2022, the said order is made absolute subject to the Petitioner duly and timely complying with the directions of payment of arrears of rent, arrears of use and occupation charges and current use and occupation charges.

12. It is however, directed that in case, the Petitioner herein defaults in making payment of the arrears and/or the current use and occupation charges as directed in the order passed in CM APPL 51941/2022, the stay granted today shall stand automatically vacated; and the Respondent herein will be at liberty to execute the eviction order dated 30.03.2022.

13. With the aforesaid directions, the said application is disposed of.

RC REV 225/2022

14. List on 22.08.2023

MANMEET PRITAM SINGH ARORA, J

MARCH 29, 2023/hp/asb