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

+ RFA 530/2022 & CM APPL. 47191/2022

SMT. MEETA SEHGAL Appellant

Through: Mr. Vikram Dua with
Mr. Vinod Kumar, Advocates.
(M): 9810080638

Email: mail01kamdua@gmail.com

versus

SH. SWADESH KUMAR BHAGI Respondent

Through: Mr. Madan Lal Sharma,
Advocate.
(M): 9810693008

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

02.12.2022

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[Physical Hearing/ Hybrid Hearing]

1. The present appeal under Section 96 of CPC and Order XLI read with Section 151 CPC to set aside judgement/decreed dated 08.08.2022 passed by learned ADJ- North-west, Rohini Courts in CS No. 1211/2018.
2. The present appeal has been filed on the ground that the learned Trial Court has allowed the application of the respondent herein under Order 12 Rule 6 CPC and passed the judgment/decreed of possession, without appreciating the fact that the appellant is occupying the suit property in the capacity of a proposed buyer under separate agreement.
3. It is the contention on behalf of the appellant that appellant has been occupying the premises not in the capacity of tenant of the



respondent. Thus, according to the appellant primary issues have been raised and the same require adducing of evidence.

4. On the other hand, learned counsel appearing on advance notice on Caveat strongly objects to the present appeal on the ground that the present appeal cannot be entertained in view of the clear judgments of Hon'ble Supreme Court in this regard.

5. Learned counsel for the appellant on the other hand has drawn the attention of this Court to agreement to sell dated 18.01.2018 and submits that entire consideration amount of the said property was fixed at Rs. 2,80,00,000/- , out of which Rs. 35,00,000/- has already been paid. He also draws the attention of this Court to receipt that has been issued on behalf of the respondent to the appellant.

6. Considering the contentions raised before this Court, it is held that the present matter needs consideration.

7. In view of the aforesaid, issue notice to respondent.

8. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

9. Subject to the appellant depositing an amount of Rs. 4,00,000/- with the respondent within a period of four weeks, learned counsel appearing for respondent undertakes that execution of the impugned judgment and decree shall not be filed till the next date of hearing.

10. List on 13.04.2023.

MINI PUSHKARNA, J

DECEMBER 2, 2022

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