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

+ RFA 908/2019

SUMAN DWIVEDI & ANR

.....Appellants

Through: Ms. Chahat Gupta, Advocate.

versus

KAMLA DEVI

.....Respondent

Through: Mr. Bhavesh Kr. Sharma and Ms.
Gudiya Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.10.2024

CM APPL. 5981/2020 (for stay)

1. This is an application for stay of the impugned judgment and decree dated 13.08.2019, by which the learned Trial Court granted possession of the suit property [*measuring 25 sq. yards comprising of Basement, Ground Floor and First Floor bearing No. RZQ-174, Khasra No. 126, Village Bindapur, Vikas Vihar, Uttam Nagar, New Delhi*] to the respondent/plaintiff.
2. The suit filed by the respondent/plaintiff is still pending before the Trial Court for determination of the amount of *mesne* profits/occupation charges payable by the appellant/defendant, if any.
3. The appellants seek stay of the impugned judgment, insofar as the decree grants possession of the suit property to the respondent.



4. The case made out in the plaint is that the premises were leased to the appellant at a monthly rent of Rs. 3,000/- per month in the year 2009, which was subject to increase at the rate of 10 % per annum.

5. The appellants, in the written statement, have contended that they had taken the property on rent in the month of February, 2005, and a security amount of Rs. 8,00,000/- was placed with the erstwhile owner.

6. I am of the view that the appellants can be granted a stay of decree possession, upon deposit of reasonable *mesne* profits/occupation charges, subject to the result of the appeal.

7. Having regard to the aforesaid facts, for the present, stay of execution of the impugned decree of possession is granted, subject to deposit of the sum of Rs. 5000/- per month by the appellants, in the following terms:-

a. Towards arrears of occupation charges from the date of the impugned decree until September, 2024, the appellant is directed to deposit a sum of Rs. 3,00,000/- in three equal instalments of Rs. 1,00,000 each by 15.11.2024, 15.12.2024 and 15.01.2025.

b. Further occupation charges w.e.f. October, 2024, calculated at the aforesaid rate of Rs. 5,000/- per month, will be deposited on a quarterly basis in advance commencing from 15.10.2024 for the quarter October to December, 2024, and by 15th January, 15th April, 15th July and 15th October, each year thereafter.

8. The aforesaid deposits will be kept in fixed deposit, subject to the result of the appeal.

9. It is made clear that the suit may proceed as far as adjudication of *mesne* profits is concerned. The amount fixed by this Court is not



intended to prejudice the rights and contentions of the parties in this regard.

10. The application is disposed of with the aforesaid conditions.

PRATEEK JALAN, J

OCTOBER 8, 2024MR/