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

+ **RSA 200/2023**

ANITA JOSHI AND ANR

.....Appellants

Through: Mr. Rahul Rohtagi, Mr. Ajmal Hasan,
Adv. (VC).

versus

DR DIGVIJAY AND ANR

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

22.01.2025

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CM APPL. 53449/2023

1. Exemption is allowed, subject to all just exceptions. The application stands disposed of.

RSA 200/2023

2. The present appeal has been filed under Section 100 CPC challenging the order/judgment dated 02.03.2023 in RCA 91/2018 titled as "*Mrs. Anita Joshi & Another vs. Dr. Digvijay & Another*" passed by Ld. ADJ-02, West, Tis Hazari Courts, Delhi whereby the appeal filed against the order/judgment dated 16.05.2018 passed by Ld. Civil Judge-01, West, Tis Hazari Courts, Delhi was dismissed.
3. Learned counsel for the appellant states that the respondent initially filed a suit for possession and mesne profits bearing suit No. 337/2010 titled as *Dr. Dig Vijay & Anr. vs. Mrs. Anita Joshi & Anr.* which was



dismissed by Ld. Civil Judge-05, West, Tis Hazari Court, Delhi vide order dated 17.12.2012. This order was challenged by the respondents in RCA No. 11/14/13 titled as *Dr. Digvijay & Anr. Vs. Anita Joshi & Anr.* and Ld. DJ-03, West, Tis Hazari Court, Delhi vide judgment dated 03.11.2014 the judgment and decree dated 17.12.2012 and 10.01.2013 were set aside and decree of possession in respect of the suit property was passed in favour of the appellant and against the respondent. However, *qua* the relief of mesne profit the matter was remanded back to the Trial Court with direction to conduct an enquiry as envisaged under Order 20 Rule 12 CPC. Learned counsel submits that subsequently the appellant vacated the premises and handed over the possession.

4. Pursuant to this in SCJ No. 607347/2016 titled as *Dr. Dig Vijay & Anr. Vs. Mrs. Anita Joshi & Anr.* Ld. Civil Judge-01, West, Tis Hazari Courts, Delhi vide order dated 16.05.2018 decreed the suit in favour of the respondent and directed the appellant to pay mesne profit at the rate of Rs. 4500/- per month from the date of filing of the suit till the decree passed by the Ld. Appellate Court for handing over the possession dated 03.11.2014 to the plaintiffs. This order was challenged by the respondent before Ld. ADJ-02, West, Tis Hazari Courts, Delhi and Ld. ADJ-02 in RCA No. 91/18 titled *Anita Joshi vs. Digvijay & Ors.* dismissed the appeal. Aggrieved of this, the appellant has invoked the jurisdiction of this Court.
5. Issue notice to the respondent subject to the condonation of delay through all permissible modes, returnable on 17.04.2025.
6. Both the parties are directed to file brief written submissions not



exceeding five pages on the substantial question of law along with the relevant judgments they wish to rely upon at least one week in advance before the next date of hearing with copy supplied to the other party.

CM APPL. 53450/2023

7. The present application has been filed under Order 41 Rules 5 read with Section 151 CPC for stay. However, since there are two concurrent findings there is no ground for ex-parte ad-interim stay.
8. Issue notice to the respondent subject to the condonation of delay through all permissible modes, returnable on 17.04.2025.

CM APPL. 53451/2023

9. The present application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 60 days in re-filing the appeal.
10. Issue notice to the respondent through all permissible modes, returnable on 17.04.2025.

DINESH KUMAR SHARMA, J

JANUARY 22, 2025/AR/KR..