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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ RSA 149/2022

RAJENDER KUMAR AGGARWAL Appellant
Through: Mr. G. S. Narula, Advocate.

versus

BHIMSEN SHARMA Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA
ORDER
02.12.2022

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CM APPL. 52295/2022 (For exemption)

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

CM APPL. 52294/2022 (For exemption)

3. This is an application filed under Section 151 of the CPC for exemption from filing certified copy of order/ judgment dated 09.09.2022.
4. For the reasons stated in the application, the same is allowed, however, learned counsel for the appellant submits that he had applied for certified copy of the First Appellate Court order in the first week of October 2022 and has not received the same till date.
5. Learned counsel is directed to obtain the certified copy and file it on record at the earliest.
6. The application stands disposed of.

RSA 149/2022 & CM APPL. 52293/2022 (For stay)

RSA 149/2022

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7. Mr. G.S. Narula, learned counsel appearing for the appellant submits that the Trial Court had passed a judgment and decree *ex parte* without looking into the fact that the appellant had specifically denied the landlord-tenant relationship, in so far as the respondent is concerned. He also further submits that the learned Trial Court assumed, on its own, the fact that the ownership of the respondent stood established without even taking the matter further to trial and merely on the basis of the documents filed by the respondent.

8. Learned counsel draws the attention of this Court to page Nos. 83 and 85 of the written statement as filed before the learned Trial Court to show that there was a specific denial to the landlord tenant relationship as well as in respect of the ownership of the respondent. Thus, he submits that the Trial Court as well as the First Appellate Court have not examined this crucial aspect of the matter and have passed the decree as well as the impugned judgment overlooking the factual aspects as asserted by the appellant coupled with the fact that the suit never went for Trial.

9. *Prima facie*, there appears to be an error committed by both the learned Trial Court as well as the First Appellate Court, which needs further and deeper consideration.

10. In view of the above, issue notice, returnable on the next date of hearing

11. Notices may be served through all permissible modes. Additionally, through the learned counsel appearing for the respondent before the learned Trial Court.

12. In the meanwhile, the learned Executing Court shall defer the



proceedings on 13.12.2022 to a date beyond the date fixed by this Court.

13. List for consideration on 08.05.2023.

TUSHAR RAO GEDELA, J

DECEMBER 2, 2022/nd