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

+ **RFA 1016/2019**

M/S USHA INTERNATIONAL LTD

..... Appellant

Through: Mr.T.K.Ganju, Senior Advocate with
Ms.Divya Bhalla, Mr.Abhishek
Chauhan, Advocates.

versus

BHIKU RAM JAIN (DECEASED) THR LRS

..... Respondent

Through: Mr.Abhishek Aggarwal, Advocate for
R-1(b).
Mr.Rahul Malhotra, Mr.Sahil Gupta,
Mr.Manas Tripathi, Advocates for R-
1 (a), (c)-(e).

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **29.11.2019**

CM APPL.No.51263/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL.No.51264/2019

The learned senior counsel for the appellant says some Court fee has been deposited and the deficient court fees shall be deposited within ten days from today.

In view of statement so made, the application stands disposed of.

CM APPL.No.51265/2019

For the reasons mentioned in the application, the requisition of TCR is dispensed with at this stage.

The application stands disposed of.

RFA 1016/2019 & CM APPL.Nos.51266/2019

This appeal challenges the judgment dated 29.07.2019 whereby

the maintenance charges and mesne profits have been granted to the respondent and against the appellant herein.

The learned senior counsel for the appellant submits such rates of market rentals were neither proved nor any lease deed was ever exhibited and hence the learned Trial Court erred in awarding damages on such higher rates than the maximum claimed by respondents themselves viz Rs.37,500/- per para 7 of the plaint. The impugned order rather relies upon a photocopy of lease deed dated 01.04.1996, exhibited as *Ex.P2* during the course of the arguments, which it is urged ought not to have been exhibited by the learned Trial Court.

It is alleged the mesne profits awarded by the learned Trial Court since are about ten times the mesne profits actually claimed by the respondent hence it would be appropriate to examine the rates of mesne profits, if are increased @ 10% p.a. and/or 15% p.a. from the date of filing of suit till decree. A calculation be provided to this Court by next date, for comparison. The learned counsel for the respondent disputes the submissions of the appellant and alleges such calculations though shall be provided but without prejudice to their rights.

List on 18.12.2019.

YOGESH KHANNA, J.

NOVEMBER 29, 2019

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