



\$~16

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

+ **RSA 221/2023 & CM APPL. 60885/2023**

RAJJAN RAIKWAR & ANR.

.....Appellants

Through: Mr. Karunesh Tandon, Mr. Chandra
Shekhar Goswami, Mr. Jay Kumar,
Mr. Rahul Chauhan and Mr.
Abhishek Kumar, Advs.

versus

ASHA RANI

.....Respondents

Through: Mr. Hari Shanker and Mr. Pankaj
Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **21.10.2024**

CM APPL. 60889/2023 (seeking condonation of delay in filing the present appeal)

1. For the reasons stated in the application, the same stands allowed and the delay of 01 day in filing the appeal stands condoned.
2. The application stands disposed of.

RSA 221/2023 & CM APPL. 60885/2023

3. Having heard learned counsel appearing for the parties, the Court finds that the appeal deserves to be admitted on the following substantial question of law:-

'As to whether the learned Trial Court has erred in decreeing the suit under Order 12 Rule 6 of CPC, in view of the provisions



of Section 60 of the Easement Act, 1882, which inter alia states that the license may be revoked by the Guarantor unless the licensee, acting upon the license has executed a work of a permanent character and incurred expenses in the execution?

4. The aforesaid substantial question of law arises in the context of the case set up by the defendant in its written statement, which states that the defendant started living in the suit premises with the consent of the plaintiff from the year 1994 and has raised the construction of first floor from his own fund.
5. The aforesaid aspect, according to learned counsel for the appellant, required the parties to adduce additional evidence and only then, the suit could have been decided by the concerned court.
6. Learned counsel appearing for the respondent, however, opposes the submissions and submits that the substantial question of law has not arisen in the instant case.
7. During the course of hearing, it also transpires that the appellant is the brother of respondent-plaintiff. There is possibility of amicable settlement.
8. Let the parties to also further explore the possibility of an amicable settlement.
9. In the meantime, the appellant is directed to strictly comply with the interim order passed by this Court on 24.11.2023, subject to modification that the amount directed shall be paid in between the 15th to 20th day of each calendar month.
10. The arrears, if any, be also paid within a period of one month from today.
11. List on 28.11.2024.



CM APPL. 6157/2024 (filed by the respondent seeking release of the deposited amount)

12. Heard.

13. Subject to furnishing the surety before the Registrar General of this Court, let the amount deposited by the appellant till 01.10.2024, be released in favour of the respondent.

14. The application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

OCTOBER 21, 2024/p