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

+ RFA 1011/2023

ANIL NIRULA (SINCE DECEASED) THROUGH HIS LRS

..... Appellant

Through: Mr. Sanjiv Kakra, Sr. Advocate along
with Mr. Akash Madan, Advocate

versus

YUDHISTHAR NIRULA (SINCE DECEASED) THROUGH HIS

LRS AND ORS

..... Respondents

Through: Mr. Anil Sapra, Sr. Advocate with
Mr. Dilip Mehra, Mr. Sarthak katyal
and Mr. Dipankar Madaan,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **11.01.2024**

CM APPL. 67238/2023 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CM APPL. 67239/2023 (Delay of 36 days in re-filing)

1. The instant application under Section 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the appellant seeking condonation of delay in re-filing the appeal.



2. For the sufficient cause being shown in the application, the same is allowed and the delay of 36 days, in re-filing in filing, is condoned.

3. Accordingly, the application stands disposed of.

CM APPL. 1764/2024 (Seeking amendment)

1. The instant application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the appellant seeking amendment of the appeal.

2. For the sufficient cause being shown in the application, the same is allowed and the amended appeal be taken on record.

3. Accordingly, the application stands disposed of.

RFA 1011/2023 & CM APPL. 67237/2023 (Stay) & CM APPL. 1763/2024 (Interim stay)

1. The instant appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 has been filed on behalf of the appellant seeking the following reliefs:

“i. Set aside the impugned judgment and preliminary decree dated 06.07.2023 passed by passed in the CS No. 57141 of 2016 titled as Anil Nirula (since deceased) through his legal heirs vs Yudhistar Nirula (since deceased) through his legal heirs) before the Ld. Additional Judge-01, New Delhi District, Patiala House Courts, New Delhi.

ii. Pass a decree of declaration declaring that the Appellant is of the Ground Floor of the property being B-2/2, Vasant Vihar, New Delhi;

iii. Pass a decree of injunction restraining the Respondents, his servants, agents, assigns or any other person acting on his behalf from entering into any transaction, from leasing out the ground floor of the suit property or inducting a tenant therein to any person or permitting any person to the same, or from occupying the same herself, or creating any third party interest therein in favour of any other person/party.



iv. Pass a decree of possession of the suit property bearing No. B-2/2, Vasant Vihar, New Delhi in favour of the Appellant and against the Respondent No. 1.

v. Pass any other or further relief/order that this Hon'ble Court may deem fit and proper in the facts and circumstances of this Case."

2. Heard.

3. Issue notice. Mr. Dilip Mehra, learned counsel appearing on behalf of the respondents accepted notice and vehemently opposed the instant appeal. He prayed for four weeks' time to file counter affidavit. Let the same be filed within four weeks as prayed. Rejoinder thereto, if any, be filed within two weeks thereafter.

4. List on 20th March, 2024.

5. The parties are also directed to file written arguments, not exceeding five pages, before the next date of hearing.

6. Lower Court Record be requisitioned before the next date of hearing.

CHANDRA DHARI SINGH, J

JANUARY 11, 2024
gs/ds

Click here to check corrigendum, if any