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

+ **RFA(COMM) 374/2024 & CM Nos.52682-84/2024**

M/S SMOOTH MOTORS

.....APPELLANT

Through: Mr Madhu Sudan Bhayana, Mr
Madhav Shah, Mr Udeyvir, Mr
Deepanshu Raheja and Mr Naveen
Pandey, Advs.

versus

GULSHAN KUMAR & ORS.

.....RESPONDENTS

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **09.09.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

CM No.52682/2024

1. Allowed, subject to just exceptions.

**CM No.52683/2024 [Application filed on behalf of the appellants seeking
condonation of delay of 16 days in filing the appeal] & CM
No.52684/2024 [Application filed on behalf of the appellants seeking
condonation of delay of 4/5 days in re-filing the appeal]**

2. These are the applications moved on behalf of the appellant seeking
condonation of delay in filing and re-filing the appeal.

2.1 According to the appellant, there is a delay of sixteen (16) days in
filing and 4/5 days in re-filing the appeal.

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3. Having regard to the period involved, we are inclined to condone the delay.

3.1 It is ordered accordingly.

4. The applications are, accordingly, disposed of.

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5. This appeal is directed against the judgment and decree dated 30.03.2024 passed by Ms Kiran Bansal, learned District Judge, Commercial Court-02, Shahdara, Karkardooma Courts, Delhi.

6. Pursuant to the impugned judgment, a decree has been drawn up. The relevant part of the decree reads as follows:

“(A) Decree of the suit for an amount of Rs.50,11,511/- on account of arrears of rent for the period up to 01.02.2023 along with interest @ 8% per annum pendent lite and future interest till its realization;

(B) Decree of Rs.9,000/- per day on account of damages and mesne profits w.e.f. 01.02.2023 up to the date of actual and factual vacation of the suit property i.e. till 21.03.2024 along with future interest @ 8% per annum on the said amount from the date of decree till its realization;

(C) It is further directed that the plaintiff is entitled to the cost of the suit to the extent of the Court Fees.”

7. Learned counsel for the appellant/defendant no. 1 says that there is an error in calculating rent arrears.

8. The matter requires further examination.

9. Issue notice to the respondents/plaintiffs via all modes including email.

10. List the matter on 28.01.2025.

11. Upon the appellant/defendant depositing the amounts in terms of Clause (A) of the decree, as extracted above, within eight (8) weeks from



today, there shall be, for the moment, a stay on the operation of the impugned judgment and decree.

12. The Registry is directed to summon the trial court record, *albeit* in a digitized form, and place it before the Court, prior to the next date of hearing.

13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 9, 2024

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Click here to check corrigendum, if any