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

+ RFA 852/2025

NATESH MALHOTRA

.....Appellant

Through: Mr. Ashish Mohan, Senior Advocate
with Mr. Sumit Rajput and Mr.
Rishabh Rawat, Advocates.

versus

RAMESH KUMAR SETHI

.....Respondent

Through: Mr. Akash Nagar, Mr. Sundar Bansal
and Mr. Apoorv Paliya, Advocates

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **18.09.2025**

RFA 852/2025

CM APPL. 56918/2025 (for stay)

By way of the present regular first appeal filed under section 96 of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns judgment and decree dated 20.05.2025 passed by the learned District Judge-03, South-East District, Saket Courts, New Delhi in counter-claim filed by the respondent bearing CS DJ No.419/2024.

2. Mr. Ashish Mohan, learned senior counsel appearing for the appellant has relied-upon the judgment of the Supreme Court in ***Karan Kapoor vs. Madhuri Kumar***¹, in relation to the scope of exercise of powers by a civil court under Order XII Rule 6 CPC for decreeing a suit based on admissions.
3. Mr. Mohan has argued that in the present case there were two Agreements to Sell, the first one dated 27.12.2022 in respect of the

¹ (2022) 10 SCC 496



First Floor; and the second one dated 12.09.2023 in respect of the Ground Floor and the First Floor of the suit property, which are subject matter of the contesting issue between the parties.

4. Learned senior counsel submits, that in this backdrop however, the learned trial court has however proceeded to decree the suit in relation to the relief of possession concerning the First Floor of the suit property based *merely* on the fact that the landlord-tenant relationship between the appellant and the respondent had been admitted for a *prior period* of time.
5. Learned senior counsel further argues, that in the circumstances, and as held by the Supreme Court in Karan Kapoor (*supra*), the exercise of power by the learned trial court under Order XII Rule 6 CPC was not appropriate.
6. Issue notice.
7. Learned counsel appears on behalf of the respondent on advance copy; accepts notice; and seeks time to file reply to CM APPL. 56918/2025.
8. No reply is required in the appeal.
9. Let reply to CM APPL. 56918/2025 be filed within 06 weeks; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copy to the opposing counsel.
10. Let trial court record be requisitioned in electronic form; and copy of TCR be supplied to counsel on request.
11. On a *prima-facie* view of the matter, and in view of the decision of the Supreme Court laid down in Karan Kapoor (*supra*), the effect and



operation of the impugned judgment and decree dated 20.05.2025, shall remain *stayed*, till the next date of hearing before this court.

12. However, in order to balance the equities and since the appellant has admittedly not paid any rent to the respondent since October 2023, it is further directed that the above interim relief shall be *subject to* the appellant paying to the respondent the rent at the last agreed rate of Rs. 52,800/- per month for the period from October 2023 till date.
13. The arrears of rent shall be cleared within 08 weeks from today; and the rent for the future period shall be paid regularly and punctually by or before the 07th day of every English calendar month.
14. Needless to add that the rent paid shall be subject to the final decision of the present appeal.
15. Re-notify on 03rd December 2025 before the learned Joint-Registrar for completion of pleadings in CM APPL. 56918/2025.
16. List before court thereafter.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 18, 2025

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