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

+ RFA 675/2024

ESBI TRANSMISSION PVT LTD

.....Appellant

Through: Mr. Arvind Nayyar, Senior Advocate
Mr. Jai Anant Dehadrai, Mr. Sameer
Dawar and Ms. Sanjukta Kaushik,
Advocates.

versus

MUKESH SHARMA AND ORS

.....Respondents

Through: Mr. K.K. Sharma, Senior Advocate
with Mr. Rajiv Balashi and Mr. Ram
Pravesh Rai, Advocates for R-1
Mr. Abhijeet, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **14.05.2025**

CM APPL. 29005/2025

By way of the present application filed under section 151 read with Order XLI Rule 5 of Code of Civil Procedure 1908 ('CPC'), respondent No. 1 seeks a direction to the appellant to deposit use and occupation charges of Rs.1,15,000/- per month during the pendency of the present appeal.



2. Mr. K.K. Sharma, learned senior counsel appearing for respondent No.1 submits, that the appellant is occupying the suit property free of cost despite respondent No.1's suit having been decreed in his favour on an application under Order XII Rule 6 CPC *vide* order dated 12.09.2024 which is under challenge by way of the present appeal.
3. Issue notice.
4. Mr. Jai Anant Dehadrai, learned counsel appears on behalf of appellant on advance copy; accepts notice; and seeks time to file reply to the present application.
5. Mr. Arvind Nayyar, learned senior counsel appearing on behalf of the appellant draws attention to paras 15 and 16 of order dated 01.10.2024 passed in the present proceedings to submit that the present application is not maintainable at all and that the issue of payment of rent has already been addressed in that order, since earnest money of more than Rs.1 crore was paid by the appellant to respondents No.1 towards sale consideration of the suit property; and the forfeiture of that sum has already been challenged by way of RFA No.676/2024.
6. Mr. Sharma contests that the above submission to say that the earnest money was paid not by the appellant company but by one of its directors.
7. Let reply to the application be filed within 04 weeks; rejoinder thereto, if any, be filed within 02 weeks thereafter; with copy to the opposing counsel.
8. Re-notify on 02nd July 2025 before the learned Joint Registrar for completion of pleadings in this application.



9. List before court on 28th July 2025.

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10. Re-notify on 02nd July 2025 before the learned Joint Registrar.

11. Re-notify on 28th July 2025 before this court.

12. The date of 02nd July 2025, given earlier, stands cancelled.

ANUP JAIRAM BHAMBHANI, J.

MAY 14, 2025/ss