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

+ RFA 406/2024

VINOD ARORA

.....Appellant

Through: Mr. C.M. Grover, Advocate.

versus

CHARANJEET SINGH

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **04.07.2024**

CM APPL. 36841/2024 [Exemption]

1. Allowed, subject to just exceptions.
2. The Application stands disposed of.

CM APPL. 36842/2024 [Condonation of delay in re-filing the appeal]

3. The present Application has been filed by the Appellant seeking condonation of delay in re-filing the present Appeal.
4. Although, the delay in the Application is 259 days in re-filing the accompanying Appeal, learned counsel for the Appellant submits that the delay is in fact 289 days and that the prayer has been written wrongly.
5. It is the contention of the Appellant that he was defrauded by a third party, one Mr. Gurmeet Singh and that he had made a payment of Rs.4.5 Crores to the said person for the purchase of the subject property.
6. The Respondent filed a suit for the possession, eviction of property and damages of *mesne profits* which has been decreed by the Trial Court by



the impugned judgment.

7. Learned Counsel for the Appellant submits that to make payment for the subject property, he was compelled to sell his house and to shift to a rental accommodation, due to which he lost sight of the present litigations. He further submits that he was unable to pay his previous Counsel due to which the Petition was not prosecuted properly. He submits that although, the Appeal was filed on time, it is for these reasons that, it could not be re-filed after removing the defects.

8. The Registry is directed to calculate the correct number of days of delay and file a report.

9. List on 29.08.2024.

RFA 406/2024 & CM APPL. 36840/2024 [Stay]

10. Learned Counsel for the Appellant contends that the Impugned Judgment suffers from various infirmities. He submits that suit was incorrectly valued and that deficit Court fee was paid. He further submits that the computation for payment of Court fee should have been taken in accordance with Section 7(v)(e) of the Court Fees Act, 1870 and the market value of the subject premises should have been taken while computing the Court fee and not Section 7 (xi) of the Court Fees Act, 1870 as has been done by the Trial Court.

10.1 He further submits that the value of the property is over Rs.2 Crores and the Trial Court thus had no pecuniary jurisdiction to try and adjudicate the present suit.

11. Learned Counsel submits that although he had filed an application bringing these facts on record before the Trial Court, the application was withdrawn by the Appellant.



12. The impugned judgment is a decree of possession of the suit property, i.e., shop No. X/259 (Part) measuring area 50 sq. yds consisting of shop at ground floor, first floor, second floor, with terrace/ roof right situated at Mohalla Ram Nagar, Gandhi Nagar, Delhi – 110031 (more specifically shown in red colour in the site plan). Learned Counsel for the Appellant submits that this Appeal will become infructuous in the event the execution proceedings are not stayed.

13. Issue Notice.

14. On steps being taken, let Notice be served on Respondent *via* all modes, *dasti* as well. Affidavit of service be filed within one week.

15. In view of the averments made, till the next date of hearing, the operation of the judgment and decree dated 28.07.2023 is put in abeyance.

16. In the meantime, Registry is directed to place on record the digital copy of the Trial Court Record, duly paginated and bookmarked, in accordance with the rules of the High Court.

17. List on 29.08.2024.

18. Parties to act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 4, 2024/pa

[Click here to check corrigendum, if any](#)