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

+ **RC.REV. 399/2024, CM APPL. 75894/2024**

NAVEEN MADAN & ANR.

.....Petitioners

Through: Ms. Aakansha Kaul, Adv. For P-1
Mr. Sajan Shankar Prasad, Adv. For
P-2

versus

SUNITA KUMAR CHABBRA & ANR.

.....Respondents

Through: Mr. Ankit Kumar Lohan, Adv. with
R-2 in-person

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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23.12.2024

CM APPL. 75895/2024 [Exemption from filing certified/typed copies]

1. Allowed, subject to the Petitioners filing certified/typed copies of the annexures within a period of three weeks.
2. The Application stands disposed of.

RC.REV. 399/2024, CM APPL. 75894/2024 [For stay]

3. The present Petition has been filed on behalf of the Petitioners seeking to impugn an order dated 02.07.2024 passed by Ld. SCJ-cum-RC (Central), Tis Hazari Court, Delhi in RC ARC – 421/2022 titled as *Surinder Kumar Chabra vs. Naveen Madan* [hereinafter referred to as 'Impugned Order']. By the Impugned Order, the application for Leave to Defend/Contest filed by the Petitioners/tenants has been dismissed and an eviction order has been passed in favour of the Petitioners/tenants in respect of tenanted premises bearing shop bearing no. 1601, Ward No. XV, Phatak Misri Khan, Main Bazar, Paharganj, New Delhi [hereinafter referred to as 'subject premises'].



4. At the outset, learned Counsel for the Petitioners/tenants restricts her arguments to the aspect of availability of alternate suitable accommodation. It is contended that there were nine other properties already available with the Respondents/landlords and that the learned Trial Court has not adequately dealt with these properties in the Impugned Order. Learned Counsel further submits that in any event, it has been contended by the Petitioners/tenants that subject premises is not suitable for the Respondents/landlords.

5. On the aspect of landlord-tenant relationship and ownership, the same has not been disputed. The *bona fide* need, as projected by the Respondents/landlords, is for the use of their daughter-in-law and the Respondents/landlords for running of an Advocate's office.

6. Issue notice, limited to the aspect of availability of suitable accommodation.

6.1 Learned Counsel for the Respondents/landlords accepts notice.

7. Learned Counsel for the Petitioners/tenants submits that six months period as granted to the Petitioners/tenants under Section 14(7) of the Delhi Rent Control Act, 1958 is set to expire on 02.01.2025 and in the event interim protection is not granted, the present Petition shall become infructuous.

7.1 Accordingly until the next date of hearing, the Impugned Order is kept in abeyance.

8. As has been held in the judgments of the Supreme Court in the case of ***Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.***¹ and ***Martin &***

¹ (2005) 1 SCC 705



Harris (P) Ltd. v. Rajendra Mehta², once a decree of possession has been passed and the execution is delayed, it is necessary for the Court to pass appropriate orders/directions fixing reasonable *mesne profit*/use and occupation charges equivalent to market rent to be paid by the person who is holding over the property

9. Both parties have handed over the lease deeds for properties in the vicinity of the subject premises in support of their contentions for user and occupation charges. The relevant extracts of the lease deeds are reproduced below:

Lease deed dated 13.10.2022: By Petitioners/tenants

Nature	Ground floor
Area	21.34 sq. mtrs. (229.7 sq. ft.)
Rent	Rs.55,000/-
Description/Details	Municipal No. 1602, Ward no. XV, Main Bazar, Paharganj, New Delhi

Lease deed dated 01.03.2024: By Respondents/landlords

Nature	Ground Floor
Area	8 X 20 sq. ft. (160 sq.ft.)
Rent	Rs.1,15,000/-
Description/Details	Shop No. 1599 and 1600, situated at Main Bazar, Paharganj, New Delhi

10. Undisputably, the subject premises is a shop on the ground floor in the Main Bazaar at Paharganj. The subject premises is being used for commercial purposes for running a cafe by the Petitioners/tenants. Both parties have filed lease deeds for properties in the vicinity of the subject premises. The lease deed relied upon by the Respondents/landlords is of an

² (2022) 8 SCC 527



adjacent property which is at a monthly rental of Rs.1,15,000/-, however, the lease deed is for two shops. While the lease deed relied upon by the Petitioners/tenants is for a property which admeasures 230 sq. ft., which is larger than the subject premises.

10.1 In view of the foregoing, this Court deems it apposite to fix interim user and occupation charges at the rate of Rs.40,000/- per month.

11. Accordingly, without prejudice to the rights and contentions of the parties, the user and occupation charges are affixed to be paid from 02.01.2025 onwards, in advance, by the Petitioners/tenants at the rate of Rs.40,000/- per month, on or before 7th day of each calendar month;

12. All payments shall be made into the bank account of the Respondents/landlords. The details of the bank account shall be provided by the learned Counsel for the Respondents/landlords to the learned Counsel for the Petitioners on his email address within two days.

13. It is clarified that the use and occupation charges as affixed hereinabove are subject to the final outcome of the present Petition.

14. Subject to the payment of user and occupation charges by the Petitioners/tenants, the interim protection granted by this Court today shall continue till the next date of hearing.

15. In the event that there is any default in the payment of use and occupation charges on behalf of the Petitioners/tenants, interim protection as granted hereinabove shall automatically stand dissolved.

16. The parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least one week before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon.



16.1 All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.

17. The Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.

18. List on 30.04.2025.

DECEMBER 23, 2024/jn

TARA VITASTA GANJU, J

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