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

+ **FAO 13/2025 and CM APPL. 2979/2025**

MEENA KUMARI

.....Appellant

Through: Mr. Navjot Kumar and Mr. Karan
Khanna, Advocates

versus

TASLIM AKHTAR & ORS.

.....Respondents

Through: Mr. Anuj Kumar, Advocate for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

29.01.2026

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1. The present appeal is directed against the order dated 21.11.2024 passed by learned District Judge-2, District North, Rohini Courts, Delhi in CS DJ No. 736/2018, whereby an application was filed under Order 39 Rule 10 CPC by the respondents, who are plaintiffs before the Trial Court, came to be allowed and the appellant, who was the defendant before the Trial Court, was directed to pay a sum of Rs.12,000/- per month to the respondents on or before 7th of every month with effect from December, 2024 onwards, till the conclusion of trial.

2. The aforesaid order came to be passed in the context of a suit preferred by the respondents for possession, permanent injunction, and mesne profit in respect of the suit property. In the plaint, respondents claimed to be the joint and equal owners of the suit property i.e. 137/32A, First Floor Gali No. 2, Rameshwar Nagar, Azadpur, Delhi. It was further claimed that the said suit property was purchased by the respondents from erstwhile owner, Smt. Farida Khanam, vide a registered Sale Deed dated



07.06.2018. It was the case of the respondent that the appellant had been inducted as a tenant by the erstwhile owner in the year 2015 for a period of 2 years commencing from 15.03.2015, vide a registered Rent Deed dated 19.03.2015. The tenancy expired on 14.03.2017 and was further extended for a period until 16.03.2018. On expiry of the said period, the appellant requested for some time to vacate the suit property and in view of the said request, the tenancy came to be extended till 30.04.2018. The erstwhile owner thereafter issued an eviction notice on 24.04.2018. The records further reveal that subsequent to the execution of the sale deed entered between the erstwhile owner and the respondent, an attornment notice was stated to be served on the appellant.

3. The appellant filed a written statement as well as a reply to the application under Order 39 Rule 10 CPC, wherein a defence was set up to the effect that the erstwhile owner had entered into an understanding with the appellant agreeing to sell the suit property to him, pursuant to which a sum of Rs.5 lakhs was also paid towards part payment. On the strength of above, the appellant disputed the claim of respondent's claim of ownership as well as documents relied upon by them and further denied receipt of any eviction or attornment notice.

4. In the backdrop of aforesaid pleadings, the Trial Court, vide the impugned order, came to be conclusion that the appellant had admitted his status as a tenant under the erstwhile owner at a monthly rent of Rs.12,000/-, and on that basis directed him to pay the said amount to the respondents. The aforementioned facts, however, would show that appellant has denied the respondent's claim of ownership. On the contrary, the appellant has set up a defence of entering into its own sale transaction with the erstwhile owner



and also having made part payment of the sale transaction amount.

5. A plain reading of Order 39 Rule 10 CPC would show that when a party to a suit admits that he holds any sum as a trustee for another party or it belongs or due to another party, the Court may order to deposit the same or deliver the same to such party with or without security. In the present case, the appellant has neither admitted the respondent's claim of ownership nor admitted being a tenant under him. The foundational facts necessary for invoking Order 39 Rule 10 CPC is disputed between the parties. The issues noted above are pending adjudication before the Trial Court and would require them to adduce evidence in support of their respective claims. At this interlocutory stage, and in absence of any admitted liability, the Trial Court could not have issued no directions for deposit of rent. Finding no justification in the impugned order, the same is set aside.

6. Accordingly, the present appeal is allowed. Pending application is also disposed of.

MANOJ KUMAR OHRI, J

JANUARY 29, 2026

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