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

+ **RFA 47/2025**

YASHPAL SANDHU

.....Appellant

Through: Mr. Praveen Aggarwal, Mr. Insaaf
Duggal and Ms. Aayushi Gupta,
Advocate

versus

UMA SETH

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **20.01.2025**

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 3238/2025 (exemption)

1. Allowed, subject to all just exceptions.

RFA 47/2025 & CM APPL. 3237/2025 (stay)

2. The appellant has assailed judgment and decree of recovery of possession and mesne profits. According to the case set up by the present respondent in her suit, the appellant who was tenant in a part of the larger premises, encroached upon an area unauthorizedly. On the other hand, the case set up by the present appellant in defence was that he had been inducted into the subject property by the respondent after he paid her a cash sum of Rs. 5,00,000/- and enhanced rent.

3. Learned counsel for appellant argues that the respondent had no title over the subject property, so the impugned judgment and decree are not



sustainable in the eyes of law. But this argument fails to convince since admittedly the appellant never challenged title of the respondent over the subject property. Even otherwise, having pleaded that he was inducted into the subject property by the respondent, the appellant is estopped from challenging title of the respondent. Not only this, there is not even a shred of document to show payment of Rs. 5,00,000/- in that regard by the appellant to the respondent.

4. It is further argued by learned counsel for appellant that the suit deserved to be dismissed because plaintiff did not step into the witness box. In this regard, it appears that on behalf of plaintiff, her son in law appeared as PW1. In his chief examination affidavit, PW1 categorically deposed that being son in law of plaintiff, he has personal knowledge of the matter and that the plaintiff is a widow of old age. From cross examination of PW1 also nothing comes out to show that he is not aware about facts of the case.

5. Considering the above circumstances, I do not find it a fit case to stay operation of the impugned judgment and decree ex-parte.

6. Subject to appellant taking steps within one week, notice through all modes be issued to the respondent returnable on 28.05.2025 before Registrar.

GIRISH KATHPALIA, J

JANUARY 20, 2025/as

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