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

+ **RFA 49/2025**

AAS MOHD. SAIFI

.....Appellant

Through: Mr. Rajinder Mathur, Mr. Tarun
Mathur and Mr. Akshat Singhal,
Advocate

versus

SANJAY KUMAR GOYAL

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **20.01.2025**

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

CM APPL. 3250/2025 (exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 3251/2025 (for condonation of delay of 17 days in re-filing)

2. For the reasons mentioned therein, the application is allowed and delay in re-filing the appeal is condoned.

RFA 49/2025 & CM APPL. 3249/2025 (stay)

3. The appellant has assailed judgment and decree of recovery of possession of the tenanted property and mesne profits. The decree was passed after full dress trial. According to the appellant, he was inducted as a tenant in the subject property by uncle of the respondent, so there is no relationship of tenancy between the parties. But on the basis of pleadings and evidence on record, the learned Trial Court arrived at the conclusion that



the suit property was purchased by the respondent from his uncle and the appellant was continued as tenant under the respondent.

4. Learned counsel for appellant contends that since the transfer documents of the subject property were only agreement to sell and attendant documents, the respondent had no title. On the basis of rival pleadings and evidence, the learned Trial Court arrived at the conclusion that the respondent had successfully proved monthly payment of Rs. 11,000/- through bank transfers from the appellant to respondent towards rent. That being so, the appellant cannot challenge title of the respondent.

5. On behalf of appellant, it is contended that said monthly payment of Rs. 11,000/- was towards repayment of loan taken by the appellant from the respondent. But admittedly, no loan agreement or any other such document was executed between the parties and even the alleged loan amount was in cash without receipt. One fails to believe that payment of loan would be in cash and repayment thereof would be through bank.

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

7. Subject to appellant taking steps within one week, notice through all modes be issued to the respondent returnable on 29.05.2025 before Registrar.

GIRISH KATHPALIA, J

JANUARY 20, 2025/as

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