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

+ **RFA(OS) 9/2025**

DUSHYANT CHIKARA

.....Appellant

Through: Mr.Santosh Kumar, Sr.Adv. with
Mr.Manish Kumar, Mr.Rohit Kumar, Advs.

versus

ZEESHAN ALI AND ANR

.....Respondent

Through: Mr.Mukul Gupta, Sr.Adv. with
Mr.Tushar Gupta, Mr.Sumit Kr. Mishra, Advs for
R-1.
Counsel for R-2(appearance not received)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE RENU BHATNAGAR

ORDER

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25.02.2025

CM APPL. 10191/2025 –Ex.

1. Exemption allowed, subject to all just exception.
2. The application stands disposed of.

**RFA(OS) 9/2025 & CM APPL. 10190/2025 –Stay, CM APPL.
10192/2025 –Delay 35-days (RF)**

3. The present appeal under Order XLI read with Section 96 of the Code of Civil Procedure seeks to assail the judgment and decree dated 13.11.2024 passed by the learned Single Judge in CS(OS) 608/2024.



4. Vide the impugned judgment, the learned Single Judge has while allowing the application preferred by the respondent/defendant no.2 under Order VII Rule 11 CPC not only dismissed the suit seeking declaration of ownership to the suit property on the plea of adverse possession, but has also directed the appellant to hand over vacant possession of the suit property to the respondents and pay mesne profits w.e.f. 01.05.2023.
5. Learned counsel for the appellant submits that the impugned judgment is wholly perverse as the learned Single Judge has not only issued directions, which were beyond the scope of order VII Rule 11 CPC, but has also relied on documents, which were not even available on record when judgment in the application was reserved on 29.08.2023. For this purpose, he draws our attention to para 10 and para 11 of the impugned judgment from which it is evident that the learned Single Judge has relied on the stand taken by the appellant in an application and documents filed in a connected suit on 30.08.2024. This he submits was impermissible.
6. Issue notice. Learned counsel for the respondent nos.1 and 2 accept notice respectively.
7. Reply(s), if any, to the applications be filed within six weeks. Rejoinder thereto, if any, be filed within four weeks thereafter.
8. Till the next date, subject to the appellant depositing the arrears of mesne profits as directed under the impugned judgment with the Registrar General of this Court, within four weeks, and continuing to deposit future mesne profits on or before 10th of every month, the operation of the impugned judgment and decree will remain stayed.



The appellant will, however, maintain status quo qua the possession and title of the suit property and will, therefore, not create any third party rights in the said property i.e., bearing no. B-100 (Second Floor) Gulmohar Park, New Delhi, without the leave of this Court.

9. List on 23.05.2025.

REKHA PALLI, J

RENU BHATNAGAR, J

FEBRUARY 25, 2025
sr