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

+ RSA 171/2016 & CM No.24354/2016 (stay)

VINOD AGGARWAL

..... Appellant

Through: Mr.Sitab Ali Chaudhary & Ms.Sania
Ansari, Advocates.

versus

GIRISH BHARDWAJ

..... Respondent

Through: Mr.Satya Narayan, Advocate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **07.12.2016**

1. By filing the instant Regular Second Appeal, the appellant/defendant is impugning the order dated 02.06.2016 whereby the First Appellate Court concurred with the decision dated 30.05.2014 passed by the learned Trial Court in Suit No.950/2009. The appellant/defendant has prayed for setting aside the orders dated 02.06.2016 and 30.05.2014 by the Courts below.

2. Learned counsel for the appellant/defendant has submitted that out of ₹2 lacs deposited by the respondent herein towards security amount in respect of premises No.B-5/57, Ground Floor, Sector-7, Rohini, Delhi, on vacation of the premises ₹1 lac has been returned to him and balance ₹1 lac was kept as the matter with NDPL was required to be settled in respect of inspection dated 07.07.2008 when the electricity was being used by the respondent herein. Learned counsel for the appellant has drawn the attention of this Court to Annexure-A2 and A3. While Annexure-A2 bears

the signature of respondent herein when theft of electricity was detected by the user Girish Bhardwaj i.e. the respondent herein, in Annexure-A3 i.e. Final Assessment Bill in respect of Dishonest Abstraction of Energy (D.A.E.) respondent's name has been shown as user. Being the registered consumer, the appellant was constrained to settle the matter with NDPL which was settled before the Mediation Centre. The appellant has a right to adjust the amount paid by him to NDPL towards Dishonest Abstraction of Energy by the user i.e. the respondent. It is further informed that in compliance of the directions of this Court, 1/3rd of the decretal amount has already been deposited by the appellant.

3. On behalf of respondent, it has been submitted that complaints were already made by the appellant about tampering with the seals of the meter and respondent cannot be blamed for Dishonest Abstraction of Energy.
4. The following substantial question of law is formulated:-
‘Whether the findings of the Courts below in respect of the security amount are ex-facie, illegal and perverse?’
5. **Admit.**
6. List the appeal as per its year of priority.
7. LCR be requisitioned and tagged along with the appeal file.

PRATIBHA RANI, J.

DECEMBER 07, 2016

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