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

Date of decision: 4th January, 2022

+ **C.R.P. 23/2019 & CM APPL. 4254/2019**

SIMRIT SINGH

..... Petitioner

Through: Mr. Anupam Srivastava and Mr. Anil Kumar Chandel, Advocates. (M: 9910102835)

versus

M/S GLOBAL COORDINATES

..... Respondent

Through: Mr. Habibur Rahman & Mr. Danish, Advocates (M: 9990708567)

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WITH

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CONT.CAS(C) 71/2019

SIMRIT SINGH

..... Petitioner

Through: Mr. Anupam Srivastava and Mr. Anil Kumar Chandel, Advocates.

versus

MS APARNA BURJWAL

..... Respondent

Through: Mr. Habibur Rahman & Mr. Danish, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

C.R.P. 23/2019 & CM APPL. 4254/2019

2. The present petition challenges the impugned order dated 29th November, 2018 in *CS. No. 7541/2016* titled *Simrit Singh v M/s Global Coordinates* passed by the *ld. ADJ-04, South East, Saket Court, New Delhi* (hereinafter “*Trial Court*”) by which the application under Order XII Rule 6 CPC filed by the Plaintiff/Petitioner (hereinafter “*Plaintiff*”) has been

rejected by the Trial Court.

3. The petition arises out of a suit for possession filed by the Plaintiff in respect of the second floor of the property bearing **No. D-19, Okhla Industrial Area, Phase-I, New Delhi** (hereinafter “suit property”) as also for recovery of rent, security, maintenance charges as well mesne profits. The Plaintiff entered into an agreement dated 1st September 2013 titled “*leave and license agreement*” which was in sum and substance a lease agreement. The case of the Plaintiff is that the lease agreement, though entered into for a period of 9 years, was unregistered. Hence the tenancy has to be construed as a month-to-month tenancy. The initial monthly rent for the suit property to be paid by the Respondent/Defendant (hereinafter “Defendant”) was Rs.60,000/-, however, for the month of March, 2016 the monthly rent paid was Rs.80,132/- till 19th March 2016. The lease was terminated vide letter dated 7th January 2016 but the Defendant refused to give possession of the property back to the Plaintiff. Accordingly, the Plaintiff sought the following reliefs from the Trial Court:

*“a) Pass a decree of possession in favour of the Plaintiff and against the Defendant in respect of **suit property, i.e., Second Floor of the property bearing No. D-19, Okhla Industrial Area, Phase-I, New Delhi, ad-measuring total area 3500 square feet approximately, alongwith the fittings and fixtures (more particularly shown in the plan annexed alongwith the suit and marked as ANNEXURE-A);***

b) Pass a decree, in favour of Plaintiff and against; the Defendant, in a sum of Rs.2,24,202/- (Rupees Two Lakhs Twenty

Four Thousand Two Hundred & Two only) for the arrears of maintenance and security charges and for unpaid rent till the termination of the tenancy;

*c) Pass a decree, in favour of Plaintiff and against the Defendant, for mesne profits @ Rs.1,50,000/- (Rupees One Lakh & Fifty Thousand Only), per month, in respect of **suit property**, from 10th of April, 2016 till the date of actual handing over of the possession of **suit property**;*

d) Award cost of the present suit in favour of the Plaintiff and against the Defendant”

4. Mr. Srivastava, Id. Counsel for the Plaintiff submits that the relationship between the Landlord and Tenant was admitted by the Defendant in his written statement. It was also admitted that the lease was unregistered, therefore, according to the Plaintiff, the decree the suit for possession ought to have been granted by the Trial Court on the basis of admission by the Defendant.

5. Id. Counsel for Plaintiff further submits that the impugned order failed to take into consideration the fact that being an unregistered lease, it could not be construed for 9 years. The Trial Court has gone on the premise that the lease is still continuing and there has been no irregularity in the payment of rent. Thus, there is no valid termination and the application under Order XII Rule 6 CPC has been dismissed.

6. He has taken the Court through pleadings as also the judgments in ***Jeevan Diesel and Electricals Ltd. v Jasbir Singh Chadha*** RFA No. **179/2011** to argue that an unregistered lease deed cannot create a lease for a fixed period and unless the lease deed is duly registered the tenancy only remains a month-to-month tenancy. Reliance is also placed on ***Surinder J***

Sud v R.R. Bhandari RSA No. 106/2006 to argue that once the Landlord Tenant relationship is established and the tenancy has expired and the matter is not covered under the Delhi Rent Control Act, 1995 the decree of possession is the natural consequence.

7. Mr. Habibur Rahman, Id. Counsel appearing for the Defendant submits that the Defendant is of 55 years of age and she was running a business from the suit property. However, due to the illegal and early termination of the lease by the Plaintiff, she was unable to use the said premises and a large amount of her movable assets are lying in the premises in question. He, further, submits that, in any event, she is not using the suit premises currently and she is willing to give possession of the suit property to the Plaintiff, however, she should be permitted to remove all the movable assets in the premises.

8. The case of the Plaintiff is that the use and occupation charges in terms of the order dated 3rd February, 2018 vide which the Trial Court had directed the Defendant to deposit the use and occupation charges @ Rs. 80,132/- with effect from the date of application filed by the Plaintiff under Order 39 Rule 10 till the pendency of the proceedings or the handing over of the physical possession of the suit property, whichever is earlier is yet to be paid by the Defendant vide. On the other hand, the Defendant contends that she should be allowed to recover the huge losses of Rs. 85 lakhs that she has suffered due to the early termination of the lease by the Plaintiff.

9. After hearing the parties and perusing the record this Court is of the opinion that the monetary claims of both parties would have to be adjudicated by the trial court in the suit and counter claim. Insofar as the handing over of the possession is concerned, in view of the stand taken

today that the Defendant/Tenant is willing to hand over possession of the suit property, the following directions are issued:

- a. The Defendant shall remove all the movable goods including computers, tables and any other furniture fittings which has been placed up by her in the suit premises within one week from the date of this order.
- b. The vacant and peaceful possession of the suit property shall be handed over on 14th January, 2022 to the Plaintiff or Plaintiff's representative in the presence of the Local Commissioner in the suit premises itself, at 11:30 a.m.
- c. Insofar as the monetary claims of use and occupation charges and damages which are being sought by the Defendant/Respondent are concerned, the same shall be adjudicated by the Trial Court in the suit.
- d. The Defendant is free to deal with the movable furniture, fittings and other computer etc., which may be lying in the suit property, in the manner she deems fit. However, a detailed statement of account shall be filed before the Trial Court in respect of the monies recovered from disposing the said assets.
- e. The Defendant shall ensure that all the electricity and water charges are cleared and paid by the Defendant till the date of the handing over of the possession of the Plaintiff.

10. Considering the fact that there is a dispute as to the expenses allegedly incurred by the Defendant in the setting up of the establishment and upkeep of the suit property, it is directed that **Mr. Anil Kumar Verma, Advocate (Mobile No. 9958014454)** shall be the Local Commissioner to oversee the

removal of the fixed furniture, fittings, etc., from the suit property. The Local Commissioner shall ensure that there is no damage caused to the suit property during the removal of furniture, computers, fittings belonging to the Defendant. If prior to the said removal the Defendant wishes to obtain a Report of any architect to quantify the expenses which she claims to have incurred in the renovation/ upkeep of the suit property, she is permitted to do so in accordance with law.

11. Accordingly, the fee of the Local Commissioner is fixed at Rs. 1,00,000/-. The fee shall be shared by both the parties equally. The Local Commissioner shall visit the premises on 7th January, 2022 in the morning at 11:30 a.m. and any other time thereafter. The representatives of the Petitioner and the Defendant shall be present. The Local Commissioner is free to take video recording and photographs of the suit property and file the same before the Trial Court.

12. Let the copies of the Local Commissioner's report be supplied to both the parties. It is clarified that only after the Local Commissioner has inspected the suit property and taken videography and photographs of the said premises, the Defendant may remove the furniture, fittings, etc., from the premises without causing any damage to the suit property.

13. With these observations, the present petition, along with all pending applications, is disposed of.

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14. In view of the order passed in C.R.P. 23/2019, the contempt petition is not pressed by the Petitioner. Moreover, Mr. Anupam Srivastava, Id. Counsel for the Petitioner submits that he has already filed an execution petition and would pursue the same in accordance with law.

15. Accordingly, the Petition along with all pending applications is dismissed as withdrawn.

PRATHIBA M. SINGH, J.

JANUARY 4, 2022

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