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

Date of Order: 11.10.2023

+ **RC.REV. 231/2020 & CM Appl.28246/2020**

RATTAN SINGH Petitioner

Through: Mr. Vipin Dilawari, Adv.

versus

ANAND KUMAR JAIN Respondent

Through: Mr. Vineet Jain, Adv.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

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

TARA VITASTA GANJU, J.: (ORAL)

CM Appl.45451/2022 [*Application seeking to pay use and occupation charges*]

1. This is an Application filed by Respondent/landlord seeking directions to the Petitioner/tenant to pay the use and occupation charges for the demised premises i.e. Property No. 3016/2, Masjid Khazoor, Dharampura, Delhi-110006 [hereinafter referred to as "demised premises"].

2. Learned Counsel for the Respondent/landlord submits that the Petitioner/tenant is using the demised Premises, *albeit* no use and occupation charges are being paid.

2.1. Therefore, learned Counsel for the Respondent/landlord submits that in terms of the judgment of the Supreme Court in *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.* reported as (2005) 1 SCC 705, once the Eviction Order has been passed, the tenant is required to pay the use and



occupation charges at market rent till the final disposal of the Revision Petition.

2.2 Learned Counsel for the Respondent/landlord, submits that the Eviction Order was passed on 09.10.2021 *qua* the demised premises, and that no use and occupation charges are being paid by the Petitioner/tenant for the demised premises thereafter.

3. Learned Counsel for the Respondent/landlord has relied on two rent agreements in the vicinity of the demised premises to submit that the prevailing rate of rent in the vicinity of the demised premises is Rs.18,000/- per month.

4. Learned Counsel who appears on behalf of the Petitioner/tenant has filed a Reply to the present Application and submits that the prevailing rate of rent in the vicinity of the demised premises ranges between Rs.500/- to Rs.1,000/- per month.

4.1 Learned Counsel for the Petitioner/tenant seeks to rely upon the rent receipts annexed along with the Petition.

4.2 Learned Counsel for the Petitioner/tenant contends that the demised premises is one room, one kothri situated on the first floor measuring 29 X 11.6 i.e., 40 sq. yds. and is in dilapidated condition.

4.3 Learned Counsel for the Petitioner/tenant submits that the rental for the demised premises has been paid till 31.05.2018.

5. Learned Counsel for the Respondent/landlord refutes the same and submits that no rental has been paid since June, 2016.

5.1 Learned Counsel for the Respondent/landlord shall send a calculation of arrears of rental for the demised premises to learned Counsel for the



Petitioner/tenant within a week.

5.2 Learned Counsel for the Petitioner/tenant shall take instructions on the same and make payment of the arrears of rental before the next date of hearing.

6. In these circumstances, without prejudice to the rights and contentions of the parties, the directions as set forth below are passed.

6.1 The Petitioner/tenant shall pay to the Respondent/landlord use and occupation charges in the following manner during the pendency of the Revision Petition:

(i) The use and occupation charges for the period from 09.08.2020 to 31.03.2022 shall be paid by the Petitioner/tenant at the rate of Rs. 3,200/- per month;

(ii) The use and occupation charges for the period from 01.04.2022 to 30.09.2023 shall be paid by the Petitioner/tenant at the rate of Rs.4,200/- per month;

(iii) The use and occupation charges from 01.10.2023 onwards, shall be paid by the Petitioner/tenant at the rate of Rs.5,000/- per month, on or before 7th day of each calendar month. The payment for October, 2023 shall be made by 20.10.2023; and

(iv) The payment of arrears of user and occupation charges as fixed in (i) and (ii) above, shall be paid by the Petitioner/tenant in three equal instalments, i.e., on 30.11.2023, 30.01.2024 and 31.03.2024.

7. All payments shall be made into the bank account of the Respondent/landlord. The details of the bank account shall be provided by the learned Counsel for the Respondent/landlord to the learned Counsel for



the Petitioner/tenant on his email address within one week.

7. It is clarified that the use and occupation charges as affixed hereinabove are tentative and subject to the final outcome of the present Petition.

8. In the event that there is any default in the payment of use and occupation charges on behalf of the Petitioner/tenant, interim protection as granted by this Court on 06.11.2020 shall automatically stand dissolved.

9. The Application is accordingly closed.

RC.REV. 231/2020 & CM Appl.28246/2020*[Application for stay]*

10. List the matter for hearing on 24.04.2024.

TARA VITASTA GANJU, J

OCTOBER 11, 2023/r

Click here to check corrigendum, if any