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

Reserved on: 24.03.2021

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Pronounced on: 03.06.2021

+ CS(OS) 339/2020
MRS UMA HADA

..... Plaintiff

Through Mr.Muneesh Malhotra, Ms.Manpreet
Kaur and Mr.Aaditya Malhotra,
Advocates.

Versus

MR. SUNIL GUPTA

..... Defendant

Through Mr.Neeraj Malhotra, Sr.Adv. with
Mr.Navlendu Kumar, Advs. with
Defendant-in-person.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (Judgment)

I.A Nos. 1490/2021(under Order XII Rule 6)

1. This is an application filed by the plaintiff under Order 12 Rule 6 CPC seeking a decree as follows:-

“1. Pass a decree for possession of the property bearing no. W-6/19, Situated at Western Avenue, Sainik Farms, New Delhi - 110062 to the Plaintiff; as prayed in the present suit.

2. Direct the Defendant to pay arrears in rent, as prayed.”

2. The prayer in the suit reads as follows:-

“i. Pass Decree for delivery of possession of the property bearing W-6/ 19, situated at Western Avenue, Sainik Farms, New Delhi - 110062 to the Plaintiff.

ii.. Pass Decree in favour of the Plaintiff and against the Defendant for Damages/Mesne Profits calculated at Rs.12,000 /- per day along with interest at the rate of 18% per annum from the date of proceeding of initialization of the suit & till the date of disposal/ handing over of the vacant possession by the defendant.

iii. Direct the Defendant to pay the arrear of rent @ Rs.14,10,000/- to the Plaintiff along with 18% interest and deposit as claimed in para 9 of the present suit.

iv. Pass a Decree of Permanent Injunction restraining the Defendant, his legal heirs, successors, assignees, representatives, or any person related to defendant from creating any third-party interest, rights or title in respect of the suit property i.e. property bearing No. W-6/ 19, Situated at Western Avenue, Sainik Farms, New Delhi -110062.”

3. The case of the plaintiff is that the plaintiff is the absolute owner of the property bearing No. W-6/19, situated at Western Avenue, Sainik Farms, New Delhi – 110062 (*hereinafter referred to as the “Suit Property”*). The plaintiff and her husband are aged about 72 years and 78 years and are senior citizens dependent on the rental income from the suit property. Both, the plaintiff and her husband, are suffering from various medical complications.

4. It is stated that the suit property was initially leased to the defendant by an unregistered lease deed dated 25.08.2016 for a period of 3 years w.e.f. 01.10.2016 to 30.09.2019. On a request from the defendant dated 02.09.2019 qua extension of the lease for a further period of 13 months, the plaintiff agreed to extend the lease for the said 13 months period i.e. from 01.10.2019 to 31.10.2020. However, the initial rent that was agreed upon being Rs.2 lakh per month was enhanced to Rs.2,30,000/- per month. The

defendant had agreed to pay the electricity bills for the period the property was in his possession and to maintain the septic tank periodically at his costs and expenses. It is stated that by letter dated 30.07.2020 and 07.09.2020, the defendant has admitted residing in the suit property as a lessee. The defendant is persistently in default of payment of rent since April, 2020 to October, 2020 at the rate of Rs.2,30,000/- per month with a total outstanding balance of Rs.14,10,000/-.

5. Hence, the plaintiff issued a notice to the defendant by notice dated 16.09.2020 for termination of the lease under Section 106 and Section 111 (a) and (g)(1) of the Transfer of Property Act and calling upon the defendant to vacate the property by 31.10.2020. It is stated that the pre-determined liquidated damages at the rate of Rs.12,000/- per day as mesne profit after termination of the lease were also sought on account of illegal and unlawful possession of the premises in terms of the lease dated 20.09.2019. A reply was received from the counsel for the defendant where an allegation has been made that there was an oral agreement to sell the suit property between the parties. Hence, the present suit for possession.

6. The defendant has filed his written statement. It is admitted in the written statement that the defendant entered into a tenancy agreement dated 25.08.2016 with the plaintiff. It is stated that during the subsistence of the lease/tenancy agreement, the defendant at the instance of the plaintiff entered into an oral agreement to sell the suit property in question with the plaintiff. According to the agreed terms of the oral agreement to sell, the total sale consideration was mutually fixed at Rs. 2.50 crore out of which the defendant paid a sum of Rs. 1 crore as follows:-

- (i) Rs. 45 lakhs on 08.09.2019, against receipt.

(ii) Rs. 55 lakhs on 05.03.2020, against receipt.

7. Hence, it is claimed that the defendant who was earlier in possession as a lessee was now put in possession of the suit property in part performance of the agreement as a buyer. Hence, it is claimed that now, the plaintiff is trying to wriggle out of the said agreement. It is claimed that the balance amount of Rs.1.50 crore is ready with the defendant and he is willing to pay the same to the plaintiff even though the balance amount was to be paid by May 2022. As cause of action would arise only after May 2022, the defendant has filed a suit for injunction against the plaintiff pending in the district courts seeking liberty under Order 2 Rule 2 CPC for filing a suit for specific performance at the appropriate time.

8. I may note that when the matter came for hearing on 09.11.2020, this court had directed the defendant to continue to pay a sum of Rs. 2.30 lakhs per month to the plaintiff on or before the 5th of every calendar month being the last agreed rent. The defendant was also restrained from creating any third party rights in the suit property till the next date of hearing.

9. I have heard learned counsel for the plaintiff and learned senior counsel for the defendant.

10. Learned senior counsel for the defendant has urged that the suit filed by the defendant in the district court for permanent injunction was filed on 17.10.2020 which is a prior suit as the present suit was filed in November 2020. Hence it is urged that the present suit is liable to be stayed. It is further urged that even otherwise, the defendant is seeking rights under Section 53A of the Transfer of property Act on account of part performance of the agreement to sell. Until the rights of the defendant are determined, the

present suit for possession cannot proceed further.

11. Learned counsel for the plaintiff has relied upon the judgment of a Co-ordinate Bench of this court in the case of *Arun Kumar Tandon vs. Akash Telecom Private Ltd. & Anr.*, *ILR (2010) 2 Del 727* to contend that under similar facts and circumstances, this court rejected the plea of an oral agreement to sell as has been raised by the defendant in the present suit.

12. I may note that in the written statement, the defendant has admitted the lease deed dated 25.08.2016. He has also admitted receipt of a notice under Section 106 of the Transfer of Property Act dated 16.09.2020 terminating the lease. Both these documents have also been admitted in admission/denial of documents.

13. I may look at Order XV-A of the CPC which reads as follows :-

**“Order XV-A
STRIKING OFF DEFENCE IN A SUIT BY A LESSOR**

1. “In any suit by a owner/lessor for eviction of an unauthorised occupant/lessee or for the recovery of rent and future mesne profits from him, the defendant shall deposit such amount as the Court may direct on account of arrears upto the date of the order (within such time as the Court may fix) and thereafter continue to deposit in each succeeding month the rent claimed in the suit as the Court may direct. The defendant shall continue to deposit such amount till the decision of the suit unless otherwise directed.

In the event of any default in making the deposit as aforesaid, the Court may subject to the provisions of sub-rule (2) strike off the defence.

2. Before passing an order for striking off the defence, the Court shall serve notice on the defendant or his advocate to

show cause as to why the defence should not be struck off, and the Court shall consider any such cause, if shown in order to decide as to whether the defendant should be relieved from an order striking off the defence.

3. The amount deposited under this rule shall be paid to the plaintiff owner/lessor or his advocate and the receipt of such amount shall not have the effect of prejudicing the claim of the plaintiff and it would not also be treated as a waiver of notice of termination.”

14. I may note that despite the order of this court dated 09.11.2020, the defendant has not paid the rent and remains in wilful default. In view of the same, the defence of the defendant is liable to be struck off under Order XV-A CPC. It is ordered accordingly.

15. In any case, I have also looked into the matter on merits. I will deal with the pleas raised by the parties. The defendant admits two aspects, namely, execution of the lease deed dated 25.08.2016 and the service of notice dated 16.09.2020 terminating the lease deed. Defendant has taken two different defences to plead as to why he cannot be evicted from the suit property. Firstly, it is claimed that the defendant has filed a separate suit for injunction which was filed prior to filing of the present suit and is pending adjudication before the concerned district court. It is stated that in view of the earlier suit filed by the defendant, the present suit is liable to be dismissed. Presumably, though not specifically spelt out, the defendant relies upon Section 10 of CPC. Secondly, reliance is placed by the defendant on Section 53A of the Transfer of Property Act to claim that the parties entered into an oral agreement to sell where part consideration was duly received by the plaintiff vide receipts dated 08.09.2019 and 05.03.2020.

Hence, possession of the defendant is protected.

16. I will now deal with the said pleas raised by the defendant. According to the defendant, the plaintiff agreed to sell the property situated at Sainik Farms which was on rent at Rs.2.30 lakh per month for a paltry sum of Rs.2.50 Crores. It is claimed that the defendant paid Rs.1 crore in two instalments i.e. Rs.45 lakhs on 08.09.2019 and Rs.55 lakhs on 05.03.2020 all in cash. Hence, it is claimed that based on these documents, the defendant who was earlier in possession as a lessee was put in possession of the suit property in part performance of the agreement to sell as a buyer. It is claimed that though the balance consideration of Rs.1.50 crores was to be paid in May, 2022, the defendant is ready to make the payment forthwith and the necessary funds are available with him. As the plaintiff did not come forward to get the sale deed executed, the defendant filed a civil suit before the concerned district court prior to filing of the present suit. A perusal of the plaint filed by the defendant shows that it is a suit for permanent injunction to restrain the plaintiff herein from dispossessing the defendant herein from the suit property. Relief is also sought to restrain the plaintiff herein from creating any third party interest in the suit property. The so called cash receipts allegedly executed by the plaintiff dated 08.09.2019 and 05.03.2020 have also been filed alongwith the plaint filed by the defendant. Hence, it is claimed that the filing of the said suit prior to the filing of this suit by the defendant attracts Section 10 of the CPC and entails, the present suit to be stayed.

17. Reference may be had to Section 10 CPC which reads as follows:-

“10. **Stay of suit** - No Court shall proceed with the trial of any suit in which the matter in issue is also directly and

substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.”

18. Reference in this context may be had to the judgment of the Supreme Court in *National Institute of Mental Health & Neuro Sciences vs. C. Parameshwara*, AIR 2005 SC 242 where the Supreme Court held as follows:-

“8. The object underlying Section 10 is to prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue. The object underlying Section 10 is to avoid two parallel trials on the same issue by two courts and to avoid recording of conflicting findings on issues which are directly and substantially in issue in previously instituted suit. The language of Section 10 suggests that it is referable to a suit instituted in the civil court and it cannot apply to proceedings of other nature instituted under any other statute. The object of Section 10 is to prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties in respect of the same matter in issue. The fundamental test to attract Section 10 is, whether on final decision being reached in the previous suit, such decision would operate as *res judicata* in the subsequent suit. Section 10 applies only in cases where the whole of the subject-matter in both the suits is identical. The key words in Section 10 are “the matter in issue is directly and substantially in issue” in the previous instituted suit. The words “directly and substantially in issue” are used in contradistinction to the words “incidentally or collaterally in issue”. Therefore, Section 10 would apply only if there is identity of the matter in issue in both the suits, meaning thereby, that the whole of the subject-matter in both the proceedings is identical.”

19. A perusal of the above judgment makes it quite clear that the said Section 10 would apply only if there is identity of the matter in issue, namely, that the whole of the subject matter in both the proceedings is identical.

20. The suit filed by the defendant in the district court is a suit for injunction to restrain the plaintiff herein from dispossessing the defendant herein in view of the alleged agreement to sell. The said suit does not deal with the stated lease and consequences of its termination. The present suit is a suit for termination of the lease and consequent, possession of the suit property. There are material differences in issues, cause of action and the reliefs which are sought in the suit filed by the defendant in the district court and the present suit filed by the plaintiff. Section 10 CPC would have no application to the facts of this case. The said plea of the defendant is without merit.

21. Regarding the reliance of the defendant on Section 53A CPC is concerned, reference may be had to Section 53A the Transfer of Property Act, 1882. The same reads as follows:-

“53A.Part Performance-Where any person contracts to transfer for consideration any immovable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty, and the transferee has, in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract, and the transferee has performed or is willing to perform his part of the contract, then, notwithstanding that, where there is an instrument of transfer, that the transfer has not been completed in the manner

prescribed therefor by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract,

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.”

22. Reference may also be had to Section 17 (1A) of the Registration Act which reads as follows:-

“17. Documents of which registration is compulsory.—

(1)

(1-A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of Section 53-A of the Transfer of Property Act, 1882 (4 of 1882), shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2001 and, if such documents are not registered on or after such commencement, then, they shall have no effect for the purposes of the said Section 53-A.”

23. This court in the case of *Arun Kumar Tandon vs. Akash Telecom Pvt. Ltd & Anr.*, (*supra*) held as follows:-

“6. It is absolutely clear that in order to give benefits of Section 53A of Transfer of Property Act, the document relied upon must be a registered document. Any unregistered document cannot be looked into by the court and cannot be relied upon or taken into evidence in view of Sections 17(1A) read with Section 49 of the Registration Act. Thus, benefit of Section 53A could have been given to the respondent if and only if the alleged Agreement to Sell cum receipt satisfied the provisions of Section 17(1A) of the Registration Act. Section 35 of the Indian Stamp Act gives a mandatory direction to the courts that

no instrument chargeable with duty shall be admitted in evidence for any purpose or shall be acted upon by any public officer unless such instrument is duly stamped. Article 23 A provides that where contract is for transfer of immovable property in the nature of part performance in any Union Territory under Section 53A, it attracts 90 per cent of the duty as that of a conveyance deed. Thus, the alleged Agreement to Sell could not have been looked into by the court for any purpose, contrary to the mandate of the statute as given in Section 35 of the Indian Stamp Act.

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10. I, therefore, consider that the trial court could not have given benefit of Section 53A of Transfer of Property Act to respondent under any circumstances even if a suit for specific performance filed by respondent No. 2 was pending. Pendency of a suit for specific performance would not have debarred the court below from looking into the document relied upon by the respondent and the effect of the document as to whether such a document can even be looked into by the court for any purpose whatsoever. When the document itself could not be looked into, the question of giving benefit to respondent on the basis of this document would not arise. It was obligatory on the court below to be aware of the law and to apply the law as it stood. Section 17(1)A of the Registration Act and Section 35 of the Indian Stamp Act were very much there on the statute book. No plea can be taken that these sections were not brought to the notice of the court. Like any other citizen of this country, Judges are also supposed to know the law and apply correct law. Benefit of Section 53A could not have been given to the respondents of a document which could not be looked into. If this document is not looked into, the respondents continue to be in possession unauthorisedly, after expiry of the lease agreement and the respondents were liable to pay the arrears of rent and monthly rent during pendency of the suit to the petitioner as reflected by the lease agreement.”

24. Hence to seek relief under Section 53A of the Transfer of Property

Act, the documents relied upon to evidence an Agreement to Sell must be registered. The so called receipts which are relied upon by the defendant to claim an agreement to sell dated 08.09.2019 and 05.03.2020 are unregistered documents. The defendant cannot rely upon the same to take any advantage of Section 53A of the Transfer of Property Act. There is no merit in the said plea raised by the defendant.

25. I may now look at some of the salient facts. The lease in question was entered into on 25.08.2016. On 20.09.2019, a new unregistered lease is said to have been executed wherein the rent was increased to Rs.2.30 lakhs per month from the original rent of Rs.2 lakhs per month. The defendant is said to be in default of rents since April, 2020.

26. I may note that the plaintiff has written several communications to the defendant including communications dated 25.06.2020 and 13.08.2020 requesting him for payment of rent. In response, the defendant wrote communications on 30.07.2020 and 07.09.2020. The said communications dated 30.07.2020 and 07.09.2020 read as follows:-

“30/07/2020

To

Ms Uma Hada W/o SH K P Hada

R/o 20 RAJA SANTOSH ROAD ALIPUR KOLKATA India
700027,

Subject:- Request letter to seek further time for the arrangement of the balance sum amount regarding the said residential premises.

Respected Ma'am,

I Sunil Gupta S/o Shri Amar Nath Gupta Resident of W-6/19, Anupam Garden, Sainik Farms New Delhi. Having physical possession of the property & as per your assurances I have

been paying the charges of the occupied property even after paying the advance money and you Ms Hada assured & promised to me to adjust the advance in the monthly rental in case if any financial crisis was occurred.

1. That due to the pandemic crisis of COVID -19 across the world. The balance payment of a few months w.e.f. April 2020 to June 2020 could not be paid in time. I was going through an acute financial crisis & further suffered from health issues and I informed you telephonically and further informed Mr.Prem Sethi also.

2. That I received the letter sent by Ms Uma Hada regarding the due payment of house rent. It is further requested by you regarding the financial need of the money for your medical need .

3. That I honor the demand created by you but due to acute financial crisis and reason of ill health I totally failed to arrange any money to fulfil the need created by you regarding the balance money. However, upon your constant pressure, I somehow arranged a sum of Rs 2,00,000/- (Two Lacs) and paid you through RTGS on 24/07/2020.

4. As I have already requested you earlier, kindly waive off/pardon the 2 months' rent/possession charges due to the COVID 19 pandemic.

I therefore requested you to kindly consider my request and kindly give me some more. time to arrange the balance payment.

Thanks & Regards,

Sd/-
Sunil Gupta”

“07/09/2020

To
Ms UMA HADA W/o SH KB HADA
R/o 20 RAJA SANTOSH ROAD ALIPUR,
KOLKATA PIN - 700027,

**SUB: Reply to your Demand notice dated 13.08.2020,
received by me on 17/08/2020**

Respected Madam,

1. I, Dr.Sunil Gupta S/o Shri Amar Nath Gupta, Resident of W-6/19, Anupam Garden, Sainik Farms, New Delhi. I have been paying the charges of the occupied property even after paying an advance amount and you had assured & promised me to adjust the advance in the monthly rental in case if a financial crisis occurred.

2. That, the contents of reply of your demand are incorrect and you have concealed many material facts in the same even you did not discuss the amount intentionally which were received by you .

3. That, you are intentionally creating hindrances in my peaceful possession of property and you intentionally pressurized me with ulterior motives best known to you.

4. That, the demand of monthly rent raised by you is not correct and you had not adjusted my money and repeatedly asking towards the rent of occupied premises. Even after sending reply of your demand notice sent by me on 30/07/2020, clearly reflects the complications and financial crisis due to Cov1d -19 pandemic and other health issues suffered by me from the last few years.

5. That, the reply dated 13.08.2020 sent by you to me is false and the reply sent by you is illegal and you please immediately withdraw the allegations made against me regarding not to fulfil the terms and conditions of the occupied property.

6. That, from the said act of you, Ms Hada I suffered mentally and physically and I got bothered from your sending people at my residence and calling me and my family members on our mobiles again and again. Kindly abstain yourself from bothering us in any manner.

7. That, the balance payment as per your demand will be met within the stipulated time agreed between us.

In view of the above I request you, Ms Hada, to kindly consider my request on the ground of my ill-health and financial crisis due to COVID-19 pandemic all over the world as a whole and please stop sending people and calling us again and again. I will call you myself whenever a more conducive time for out meeting comes.

Thanking you,
Sincerely,

Sd/-
Sunil Gupta”

27. In para 7 of the plaint, a clear reference is made to the above communications dated 30.07.2020 and 07.09.2020 sent by the defendant. In para 7 of the written statement, the defendant does not deny having sent the said communications to the plaintiff on 30.07.2020 and 07.09.2020. These communications are sent much after the so called agreement to sell as allegedly evidenced by the alleged receipts executed by the plaintiff dated 08.09.2019 and 05.03.2020. The defendant in these communications admits that the balance payment of few months i.e. April, 2020 to June 2020 could not be made on account of the COVID 19 pandemic. He also admits that due to acute financial crisis and ill health, the defendant failed to arrange the money to fulfil the need regarding the balance amount. He also admits that

only on the constant pressure of the plaintiff, he arranged Rs. 2 lakhs which was paid on 24.07.2020. There are clear categorical admissions of the defendant made after the alleged agreement to sell admitting his status as a tenant to the property and admitting that he is in default of having made payment of monthly rent of Rs.2 lakhs per month.

Further, along with this application under Order XII Rule 6 CPC the plaintiff has attached her statement of bank accounts which clearly shows that the defendant has been paying rent of Rs.2.30 lakhs per month as late as July 2020 i.e. even after the alleged agreement to sell entered into on 08.09.2019 and 05.03.2020.

28. The written statement of the defendant and the documents placed on record including the communications sent by the defendant dated 30.07.2020 and 07.09.2020 unequivocally show that the defendant admits that he is in possession of the suit property as a tenant and is in default of payment of rents. The tenancy has been validly terminated.

29. For the purpose of the application under Order XII Rule 6 CPC, I may refer to the judgment of the Division Bench of this Court in the case of **Vijay Mayne vs. Satya Bhushan Kaura, (2007) 142 DLT 483 (DB)** where this Court held as under:-

“12. It is not necessary to burden this judgment by extracting from the aforesaid authoritative pronouncement as the learned Single Judge has accomplished this exercise with prudence and dexterity. Purpose would be served by summarizing the legal position which is that the purpose and objective in enacting the provision like Order 12 Rule 6 CPC is to enable the Court to pronounce the judgment on admission when the admissions are sufficient to entitle the plaintiff to get the decree, inasmuch as such a provision is enacted to render speedy judgments and save the parties from going through the rigmarole of a protracted trial.

The admissions can be in the pleadings or otherwise, namely, in documents, correspondence etc. These can be oral or in writing. The admissions can even be constructive admissions and need not be specific or expressive which can be inferred from the vague and evasive denial in the written statement while answering specific pleas raised by the plaintiff. The admissions can even be inferred from the facts and circumstances of the case. No doubt, for this purpose, the Court has to scrutinize the pleadings in their detail and has to come to the conclusion that the admissions are unequivocal, unqualified and unambiguous. In the process, the Court is also required to ignore vague, evasive and unspecific denials as well as inconsistent pleas taken in the written statement and replies. Even a contrary stand taken while arguing the matter would be required to be ignored.”

30. Reference may also be had to the judgment of a Coordinate Bench of this Court in the case of *Usha Rani Jain & Ors. vs. Nirulas Corner House Pvt. Ltd. & Ors.*, *ILR (2005) II DELHI 349*, where the court held as follows:-

“18. The object of Order XII Rule 6 CPC is to enable a party to obtain a speedy judgment, at least, to the extent of the admissions of the defendant to which relief the plaintiff is entitled to. The rule permits the passing of the judgment at any stage without waiting for determination of other questions. It is equally settled that before a Court can act under Order 12 Rule 6, the admission must be clear, unambiguous, unconditional and unequivocal. Admissions in pleadings are either actual or constructive. Actual admissions consist of facts expressly admitted either in pleadings or in answer to interrogatories. In a suit for ejection, the factors which deserves to be taken into consideration in order to enable the Court to pass a decree of possession favour of the plaintiff primarily are:

- 1) Existence of relationship of Lesser and lessee or entry in possession of the suit property by defendant as tenant;

2) Determination of such relation in any of the contingencies as envisaged in Section 111 of the Transfer of Property Act.”

31. In my view, there are clear admissions on record of the defendant about the existence of landlord and tenant relationship. The facts and documents as stated above demonstrate that the agreed rental price of the premises as payable by the defendant on 31.10.2020 at the rate of Rs.2,30,000/- per month are to the tune of Rs.14,10,000/-. There is also clear admission on behalf of the defendant about receiving the notice of termination of the lease deed dated 16.09.2020. Therefore, the plaintiff would be entitled to an appropriate decree on the admissions in view of Order 12 Rule 6 CPC.

32. Clearly, the defence set up by the defendant is sham and bogus. The agreement to sell cannot be believed for the very simple reason that a prime property in South Delhi which was fetching a rent of Rs.2,30,000/- per month cannot possibly be agreed to have been sold for a pittance of Rs.2.50 crores as is being claimed by the defendant. Sham defences like the present one have to be nipped in the bud.

33. The present application is allowed.

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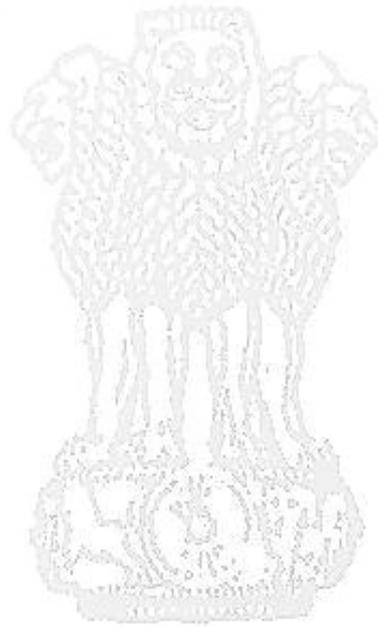
Accordingly, a decree is passed in favour of the plaintiff and against the defendant for possession of the suit property W-6/19, WESTERN AVENUE, SAINIK FARMS, NEW DELHI - 110062. A decree is also passed in favour of the plaintiff and against the defendant for arrears of rent of Rs.14,10,000/-. The plaintiff shall also be entitled to simple interest at the

rate of 18% per annum w.e.f. the date of filing of the suit till the date of the decree. The plaintiff shall also be entitled to simple interest at the rate of 18% per annum w.e.f. the date of the decree till recovery of the amount. The suit shall continue regarding the relief of damages and mesne profits.

List the suit before the Joint Registrar on 12.08.2021 for further proceedings.

JAYANT NATH, J

JUNE 03, 2021/rb



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