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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 311/2019, CM APPL. 24081/2019 & CM APPL.**
41749/2021

M/S SHIV SHAKTI ROAD LINES

..... Petitioner

Through: Ms. Ria Sachthey, Mr. Chetan
Sharma, MR. Ilesh Shukla, Mr.
Chetanya Singh & Mr. Samarth
Tyagi, Advocates.

versus

KAPIL CHANDRA JAIN & ANR.

..... Respondents

Through: Mr. S.N. Gupta & Mr. Abhishek
Vashisht, Advocates.
Mr. Shekhar Dasi, Advocate.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

23.05.2023

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

1. Learned Counsel for the Respondents/landlords submits that in terms of the judgment of the Supreme Court in *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.* (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 present Petition.

1.1 Learned Counsel for the Respondents/landlords further submits that similarly situated properties in the vicinity of the demised premises are fetching a rent of Rs.120/- per sq. ft. per month translating to approximately Rs.66,000/- per month.

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2. Learned Counsel for the Respondents/landlords further avers that the no use and occupation charges have been paid by the Petitioner/tenant after the passing of the Eviction Order on 14.01.2019 [hereinafter referred to as “Eviction Order”].
3. Learned Counsel for the Respondents/landlords further draws the attention of the Court to the order dated 08.07.2019, wherein *inter-alia* interim directions, restraining the Respondents/landlords from proceeding in execution of the Eviction Order, were passed by this Court.
4. Learned Counsel for the Petitioner/tenant, on instructions, submits that the Petitioner/tenant is not in a position to pay monthly use and occupation charges. He, however, submits that the Petitioner/tenant wishes to vacate the Property No. 1215 - 1236, Ground Floor, Bahadurgarh Road, New Delhi – 110006 [hereinafter referred to as “demised premises”] by 01.06.2023. In addition, the Petitioner/tenant agrees to making a lump-sum payment in the amount of Rs.40,000/- as mesne profits to the Respondents/landlords on or before 31.05.2023.
5. Learned Counsel for the Respondents/landlords, on instructions, submits that the Respondents/landlords, who are present in Court, agree to accept the lump-sum payment provided the Petitioner/tenant vacates the demised premises by 01.06.2023.
6. The learned Counsel for the Respondents/landlords shall communicate to the learned counsel for the Petitioner/tenant the details of the bank account of the Respondents/landlords in which the payment is to be deposited/remitted by the Petitioner/tenant within two days.



7. Without prejudice to the rights and contentions of the parties, let an Affidavit/Undertaking be filed by the Petitioner/tenant within a period of three (3) days undertaking that:

- (i) The vacant, physical and peaceful possession of the demised premises will be handed over by the Petitioner to the Respondents on or before 01.06.2023;
- (ii) Payment of Rs.40,000/- as mesne profits shall be paid into the Bank Account of the Respondent(s) *via* an online transfer/NEFT by the Petitioner on or before 31.05.2023;
- (iii) The Petitioner will pay all the utility bills such as electricity and water and any other dues, for the demised premises till the date of handing over of the vacant, physical and peaceful possession thereof;
- (iv) The Petitioner undertakes and confirms that the entire demised premises are under their occupation and control;
- (v) The Petitioner undertakes that he will not create any third party rights or part with possession of the demised premises and they shall not damage the demised premises in any manner whatsoever prior to its vacation;
- (vi) The Petitioner shall remain bound by the aforesaid Undertaking.

8. An advance copy of the Undertaking shall be served on the Respondents/landlords.

9. In the event that the Petitioner/tenant defaults in complying with the terms of the Undertaking, the interim protection as granted by this Court *vide* order dated 08.07.2019 shall automatically stand dissolved.

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10. List the matter on 01.06.2023.
11. Parties will act based on the digitally signed copy of the order.

MAY 23, 2023/ ha

TARA VITASTA GANJU, J

Click here to check corrigendum, if any

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