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% 12.02.2008

Present: Mr.Neeraj Chaudhary, Advocate for the petitioner.
Mr.B.N. Gupta, Advocate for the respondent

+ CM No. 15977/2007 in CM(M) No. 1037/2007
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In view of the reasons stated in the application the same is allowed and the order dated 6.11.2007 dismissing the petition for non-prosecution is recalled.

CM(M) No.1037/2007

In this petition the petitioner tenant impugns the order dated 8.2.2007 passed by the Additional Rent Control Tribunal, Delhi in RCA No. 94/2006. The respondent landlady has filed the eviction petition under Section 14(1)(a) of the Delhi Rent Control Act and another petition under Section 14(1)(b) had also been preferred. The defence set up by the petitioner herein was that the respondent was not the owner of the suit premises. The petitioner claimed ownership of the premises and contended that the premises had mortgaged with the respondent to secure a loan obtained by him from the respondent. The learned Additional Rent Controller came to the finding of fact that the premises had been transferred to the respondent by the petitioner by executing various documents such as registered power of attorney, Will, affidavit, agreement to sell etc. The petitioner, in fact, admitted his signatures on the documents though it was his case that the said documents have been created as a result of a fraud played by the respondent. This defence has not been accepted by the Additional Rent Controller.

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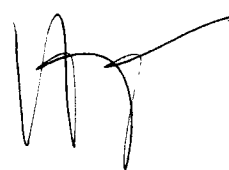
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These are findings of facts.

The learned Additional Rent Controller, Delhi, passed an order under Section 15(1) of the Act by giving the petitioner benefit under Section 14(2) of the Act directing him to pay or deposit rent @ Rs.2000/- per month and also requiring him to pay the same in future. However, the petition under Section 14(1)(b) of the Act was dismissed. Against that order the petitioner filed an appeal before the Rent Control Tribunal which has been dismissed by the impugned order. The Tribunal has taken a view that the petitioner herein did not raise any question of law and that the appeal under Section 38 of the Act was maintainable only in respect of a question of law.

Before me, learned counsel for the petitioner argues that his client has been defrauded by the respondent. He submits that there was no agreement to sell etc. and that merely a loan transaction had been entered into and in pursuance thereof the property was mortgaged with the respondent. These are the questions of fact which has been determined by the learned Rent Controller. They do not raise a question of law and the petitioner is unable to show that any question of law was raised before the Tribunal which the Tribunal has failed to appreciate. In view of the aforesaid I find no merit in the petition.

Dismissed.



VIPIN SANGHI, J.

February 12, 2008
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