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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: February 02, 2010

+ CM(M) 150/2010

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Rajesh Kumar Gupta

Through: Mr. Virender Singh, Advocate

02.02.2010

...Petitioners

Versus

Shri Ajay Saluja & Anr.

Through: nemo

...Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORAL

1. By this petition, the petitioner has assailed an order dated 16th January 2010 passed by learned Additional Rent Control Tribunal dismissing the appeal of the petitioner herein against the order dated 30th September 2009 passed by learned ARC.

2. Brief facts relevant for the purpose of deciding the present petition are that an eviction order was passed against the petitioner on 3rd January 2002. Against this eviction order, the present petitioner preferred a revision petition before this Court. The petitioner continued with this petition for quite some time and then withdrew the revision petition seeking liberty to agitate the matter before the appropriate forum. The landlord thereafter filed an execution of eviction order. In the execution petition, the present petitioner preferred objections on account of jurisdiction of learned ARC and on the ground that there was no notification in respect of the area where the premises was situated and the ARC passed the order under Delhi Rent Control Act without jurisdiction. The learned ARC considered the notifications under DRC Act and

came to conclusion that the area where the suit premises was situated fell under the notified area and dismissed the objections. Against this order, an appeal was preferred by the petitioner before learned ARCT and the learned ARCT again went through the entire pleadings and the notification and after hearing the parties and passed a detailed judgment. The learned ARCT came to conclusion that the premises in question was covered by the notification giving jurisdiction to ARC and there was no force in the objections raised by the petitioner and dismissed the appeal. The petitioner has now filed the present petition.

3. It is apparent that the whole effort of the petitioner has been just to prolong the agony of the landlord who had obtained a decree of eviction on valid grounds in 2002. Firstly the petitioner filed a revision petition before this Court, pursued it for quite some time and thereafter withdrew the same. The petitioner had not taken the issue of jurisdiction of ARC in his response filed to the eviction petition. It is settled law that an objection regarding jurisdiction, must be taken at the first instance. The petitioner contested the eviction petition and submitted to the jurisdiction of learned ARC. He thereafter filed a revision petition and there also the petitioner did not take objections on the ground of jurisdiction. It is thereafter that this idea struck to the petitioner that he should file objections against the execution taking the objection of jurisdiction of ARC on the basis of some notification and the petitioner then filed objections which were dismissed and the appeal was also dismissed. By this process, the petitioner had able to retain the premises for more than eight long years after passing of eviction decree.

4. It is settled law that under Article 227 of the Constitution of India, this Court does not act as a Court of appeal neither this Court has power to correct the errors of facts as well as of law. This Court, in exercise of supervisory jurisdiction, cannot indulge in re-appreciation or re-evaluation of evidence or correct the error in drawing inference or errors of technical character. The power under Article 227 of the

Constitution of India is discretionary in nature and is solely governed by the dictates of judicial consciousness so as to prevent the orders passed beyond jurisdiction or to see that the subordinate court or tribunal must act within the four walls of law and act in accordance with the principles of natural justice and follow due process as laid down by law.

5. In view of the concurrent findings of the two courts below given after considering the notification relied upon by petitioner that learned ARC did not jurisdiction, I find no reason to interfere with the order of learned Tribunal. The present petition is a gross misuse of judicial process and is hereby dismissed with costs of Rs.25,000/-.

February 02, 2010
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SHIV NARAYAN DHINGRA J.