

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

Date of Order: 8th March, 2010

CM (M) No. 306/2010

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08.03.2010

Shri Javed

... Petitioner

Through: Ms. Protima Parihar, Advocate

Versus

Smt. Kasturi Devi

... Respondent

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?

ORDER (ORAL)

By this petition, the petitioner has assailed an order dated 7th January, 2010 of the learned Additional Rent Control Tribunal whereby an appeal of the petitioner against the order of learned Additional Rent Controller allowing eviction petition was dismissed.

The only argument advanced by the Counsel for the petitioner is that the landlady herself did not appear in the witness box and her General Power of Attorney appeared as a witness and testified. She submitted that the learned ARC went wrong in relying on the testimony of the attorney and passing eviction order and then the learned ARCT went wrong in upholding the eviction order.

Any person who is aware of the facts can lawfully depose in the Court. There is no bar on an attorney of landlord appearing in the witness box and deposing about the facts of which he/she has personal knowledge. The judgment relied upon by the petitioner viz. Janki Vasheo Bhojwani & Anr. v. Indusind Bank Ltd. & Ors.

2005 RLR 308 (SC) does not state that an attorney of a principal cannot appear and depose in the Court. The judgment only states that the evidence of the attorney should be restricted to the facts of his/her knowledge or the knowledge derived from the books or documents. He/she cannot depose all those facts of which he/she has no personal knowledge and which are in the special knowledge of the principal. It is not the case of the petitioner that attorney in this case deposed about those facts which were not in his knowledge. I, therefore, find no force in the argument raised by the petitioner.

In view of the concurrent finding given by the Courts below about non-payment of rent and the second default because of non-compliance of the order under Section 15(1) of DRC Act I find no force in this petition. The petition is hereby dismissed.

March 08, 2010
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SHIV NARAYAN DHINGRA, J.