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

+ RC.REV. 78/2010

BIBO & ORS

..... Petitioner
Through: Mr.D.K.Sharma, Advocate.

versus

VED PARKASH

..... Respondent
Through: Mr.Rajeev Saxena, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
22.11.2011

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Order impugned before this court is the order dated 05.3.2010 vide which the application for leave to defend filed by the defendant in a pending eviction petition under Section 14(1)(e) of the Delhi Rent Control Act (hereinafter referred to as the DRCA) had been dismissed.

Record shows that the eviction petition has been filed by the landlord Ved Prakash seeking eviction of his tenant from the disputed premises i.e. one tin shed roof at the first floor of the property bearing No.540/20, Nai Basti, Kishan Ganj, Delhi which has been tenanted out to the tenant for residential purpose @ Rs.300/- per month. Contention of the landlord is that he is living

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in the premises along with his wife, four sons and their family; he has a married daughter; grand children and the accommodation which is presently available with him which comprises of three rooms is insufficient to accommodate the growing large family; bonafide requirement has been pleaded in the petition.

In the application for leave to defend these facts have been disputed. It is not in dispute that the petitioner is landlord and owner of the premises and the premises had been let out for residential purpose, however, it has been contended by the tenant that the petitioner has reasonably suitable accommodation and the present tin shed will serve him no purpose. Attention has been drawn to the site plan which has been filed along with the eviction petition by the landlord where the ground floor has depicted ten rooms; contention of the tenant is that this site plan is contrary to his pleadings. It is contended that the site plan on the ground floor has shown ten rooms; there is first floor and second floor of the premises; contention being that this site plan is in fact contrary to the pleadings of the petitioner himself.

In the application for leave to defend the tenant has specifically averred that the premises in question has seven rooms on the ground floor and two tin shed and four rooms on the first floor and three rooms on the second floor and one room on the third floor. In the corresponding para of the reply the

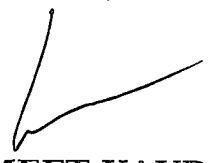
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landlord has not denied this factum; his contention is that the out of the seven rooms on the ground floor three are in dilapidated condition and not fit for human habitation and four are occupied by the other tenants. In this reply it has also been admitted that there is one room on the third floor which is occupied by Satish Kumar who is suffering from extreme hardships. The site plan filed by the landlord has depicted no third floor. That apart the site plan has depicted ten rooms in the ground floor which is contrary to the reply filed by the landlord wherein he has stated that there are seven rooms on the ground floor; this contention of the petitioner that the landlord himself is confused as to how much accommodation is available and what is bonafide his need and whether the accommodation presently available with him is sufficient or not has not been prima facie answered by him.

A party who comes to the court must come with clean hands; a party who conceals facts and pleads facts which are contrary and contradictory to the document which he has filed in support of his pleadings does entitle the tenant to raise a triable issue which requires adjudication. The landlord in a petition under Section 14(1)(e) of the DRCA must plead that the accommodation available or in his possession is not sufficient; he must come to the court with clean hands; in this case landlord has claimed that he has seven rooms on the ground floor whereas

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the site plan filed by him in support of his case shows that there are ten rooms. These conflicting and contrary stands have raised a triable issue. Petition is allowed. Leave to defend is granted in favour of the tenant. Parties to appear before the trial court on 15.12.2011 who shall deal with the case on its merits.



INDERMEET KAUR, J

NOVEMBER 22, 2011

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