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% 21.10.2011

Present: Mr. Rajesh Katyal and Mr. S.S. Katyal, Advocates for the petitioner.
Mr. Anil Kr. Bhasin, Advocate for the respondent.

+ **CM No. 19494/2011 (exemption) in RCR No. 424/2011**

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Exemption allowed subject to just exceptions.

RCR No. 424/2011 and CM No. 19493/2011

The order impugned before this Court is the order dated 25.07.2011 vide which the application filed by the tenant for condonation of delay in filing his application for leave to defend had been dismissed.

Record shows that the present eviction petition has been filed by the landlord under Section 14(1) (e) of the Delhi Rent Control Act (DRCA). Summons were served upon the tenant on 19.03.2011. The application for leave to defend was admittedly not filed within the stipulated period of 15 days. An application under Section 5 of the Limitation Act had been filed seeking condonation of delay of 5 days in preferring this application. The impugned order has relied upon the judgment of the Apex Court reported in 2010 (1) RCR 53 titled as Prithpal Singh vs. Satpal Singh where the Court has after taking into account the provisions of Chapter III of the DRCA noted that for an eviction petition under Section 14(1) (e) of the DRCA procedure contained in Section 25(B) of the said Act which has to be strictly

Signature Not Verified; under Section 25(B) sub-clause 4, the tenant is not

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permitted to contest the prayer for eviction unless he files an affidavit before the Controller within the stipulated time stating the grounds on which he seeks to contest the application for eviction and thereafter only leave can be granted to the tenant contest the eviction petition; in case he does not file the application for leave to defendant within the stipulated period, the order of eviction will automatically accrue in favour of the landlord on the ground of bona fide requirement. The impugned order holding that condonation of delay is not permissible in such a petition suffers from no infirmity. Reliance has been placed by the learned counsel for the petitioner upon the judgment of 2001 (4) SLT 516 titled as Anil Kumar Gupta vs. Kamlesh Narayan Singh; it was in the peculiar facts of that particular case where the Court had noted that the tenant was suffering from a disease 'Kalaza'; evidence having been led on that score which had remained un-rebutted that Court had granted condonation of delay. Moreover, this judgment of the Apex Court is one page judgment from which it cannot be deciphered that under which provisions of law this eviction petition had been filed.

Petition is dismissed.

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INDERMEET KAUR, J

OCTOBER 21, 2011

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