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

+ RC.REV. 498/2017

MADAN MOHAN

..... Petitioner

Through: Manu Nayar, Ms. Meenakshi Bhatia,
Ms. Namrata Arora and Ms. Radhika
Arora, Advs.

Versus

SANDHYA GUPTA & ORS

..... Respondents

Through: Mr. Satya Prakash Gupta, Adv. for
R-1.

AND

RC.REV. 500/2017

SUNIL KALRA AND ANR

..... Petitioners

Through: Manu Nayar, Ms. Meenakshi Bhatia,
Ms. Namrata Arora and Ms. Radhika
Arora, Advs.

Versus

VIKAS GUPTA AND ORS

..... Respondents

Through: Mr. Satya Prakash Gupta, Adv. for
R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **01.11.2017**

Caveat No.937/2017 in RC.REV. No.498/2017

1. The counsel for the respondent No.1/caveator in RC.REV.
No.498/2017 appears.

2. The caveat stands discharged.

**CM No.39177/2017 in RC.REV. No.498/2017 & CM No.39353/2017 in
RC.REV. No.500/2017 (both for exemption)**

3. Allowed, subject to just exceptions.

4. The applications are disposed of.

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RC.REV. No.498/2017 & CMs No.39176/2017 (for stay) & 39178/2017 (u/O-VI R-17 CPC) & RC.REV. No.500/2017 & CMs No.39352/2017 (for stay) & 39354/2017 (u/O-VI R-17 CPC)

5. These petitions, both under Section 25B(8) of the Delhi Rent Control Act, 1958, impugn separate but identical orders (both dated 3rd May, 2017 and both of the Court of Additional Rent Controller (ARC) (South), Saket Courts, New Delhi and in E No.6229/2016 (UID No.02406C0053222015) and E No.6260/2016 (UID No.02406C0040062013) respectively) allowing the petition for eviction under Section 14(1)(e) of the Act filed by the respondent/s/landlord/s in each of the petitions and the consequent order of eviction of the petitioner/s from premises No.13/13, Mandir Wali Gali, Yusuf Sarai, New Delhi and from shop No.5/4, Yusuf Sarai, Main Market, New Delhi respectively.

6. The orders of eviction have been passed owing to the applications for leave to defend by the petitioner/s being filed, though within fifteen days of the date of last service of summons/notice of the petitions for eviction but beyond fifteen days from the date of service of summons/notice first served on the petitioner/s. Reliance in this regard has been placed on the dicta of the Division Bench of this Court in **Ashok Kumar Vs. Purshotam Lal Verma** (2016) 233 DLT 761 (DB).

7. I have drawn the attention of the counsel for the respondents/caveator to the order dated 16th August, 2017 in RC.REV.279/2014 titled **Director Education Vs. Mohd. Shamim** referring the question, whether this Court is entitled to condone the delay in filing leave to defend, to a Larger Bench of this Court and have enquired from the counsel for the respondents whether

the respondents, for the sake of expediency, are agree to the impugned orders being set aside and the applications filed by the petitioner/s for leave to defend being considered on merits.

8. I may also record, that the law as prevalent in Delhi prior to the dicta in **Ashok Kumar** supra was, the period of 15 days for filing leave to defend being computed from the date of last service of summons of the petition for eviction, when summons were issued and served by multiple modes. If the counsel for petitioner/s, relying on the law as prevalent earlier, was of the view that the leave to defend could be filed within 15 days from the date of last service, it cannot be said that there was any delay/negligence on part of petitioner/s.

9. The counsel for the respondents/caveators states that the petitioner/s, after the order of eviction, has/have filed inter-pleader suits impleading the respondents and certain other persons from whom respondents have purchased the property. It is contended that the petitioner/s for such *mala fide* conduct, are not entitled to exercise of any discretion.

10. The counsel for the petitioner/s has fairly stated that though the petitioner/s has/have filed interpleader suits but in the petitions for eviction under Section 14(1)(e) of the Act filed by the respondents and from which these petitions arise, will not challenge the ownership of the respondents of the premises in the tenancy of the petitioner/s and the existence of relationship of landlord and tenant between the parties.

11. The counsel for the respondents/caveators states that if the petitioner/s are bound to the aforesaid statement, he has no objection to the impugned orders being set aside and the applications for leave to defend filed by the

petitioner/s being considered on merits.

12. The petitioner/s are ordered to be bound by the statement aforesaid of their counsel.

13. Accordingly, the impugned orders are set aside and the eviction petitions from which these petitions arise are restored to the same position as immediately prior to the impugned orders and the learned ARC is requested to consider the applications filed by the petitioner/s for leave to defend, as filed within time and on their own merits.

14. The petitions are disposed of. No costs.

15. The parties to appear before the ARC (South), Saket Courts, New Delhi on 28th November, 2017.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 01, 2017

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