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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 142/2015

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Date of decision : 4th March , 2015

AZAD

..... Appellant

Through: Mr. Rajiv Sharma and Ms.
Monica Nagi, Advs.

versus

SUBHASH CHAND

..... Respondent

Through:

CORAM :-

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the impugned judgment and decree whereby his prayer for possession has been dismissed by the learned Trial Court.

2. Learned counsel for the appellant submits that the appellant purchased the suit property on 1st March, 2006 when the respondent was occupying the suit property as a tenant at a monthly rent of Rs.50/- per month. It is further submitted that the appellant called upon the respondent to either vacate the suit property or pay the monthly rent @ Rs.8,000/- per month whereupon the respondent orally agreed to pay Rs.8,000/- per month. The appellant thereafter terminated the tenancy by notice

dated 26th July, 2011 and instituted the suit for possession and mesne profits before the Trial Court.

3. The respondent contested the suit on various grounds inter alia that the rent of the suit property was Rs.50/- per month and therefore, the suit was barred by Section 50 of the Delhi Rent Control Act, 1958. The respondent denied the increase of rent from Rs.50/- to Rs.8,000/- per month.

4. Learned counsel for the appellant submits that he examined three witnesses to prove that at the respondent orally agreed to increase the rent from Rs.50/- to Rs.8,000/- per month whereas the defendant examined himself in the witness box to deny the same. Learned counsel for the appellant admits that the respondent never paid the rent of Rs.8,000/- per month even once.

5. On careful consideration of the contentions raised by learned counsel for the appellant, this Court is of the view that there is no infirmity in the findings of the learned Trial Court. Applying the test of preponderance, the appellant's plea that the respondent orally agreed to enhance the rent from Rs.50/- to Rs.8,000/- per month to lose the protection of Delhi Rent Control Act, 1958 is not believable.

6. There is no merit in this appeal which is hereby dismissed.

J.R. MIDHA, J

MARCH 04 , 2015

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