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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RC.REV. 184/2015

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Decided on: 19th May, 2015

SHYAM LAL

..... Petitioner

Through: Mr. Pramod Ahuja, Advocate.

versus

MURTI DEVI & ORS

..... Respondents

Through: Mr. Shailendra Babbar and Ms.
Karuna Chhatwal, Advocates.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J (ORAL)

CM No.8708/2015 (recalling of order dated 22nd April, 2015) and 8709/2015 (Stay of order 22nd April, 2015)

1. RC Rev No.184/2015 came up for hearing before this Court on 22nd April, 2015. After some arguments, learned counsel for the Petitioner realising that there was no merit in the petition did not press the present petition on merits and sought extension of time to vacate the premises which was granted vide order dated 22nd April, 2015. Thereafter the present applications have been filed seeking recalling and stay of the order dated 22nd April, 2015.
2. The two grounds urged by the counsel now appearing on behalf of the Petitioner/applicant are that the erstwhile counsel had no instructions to withdraw the matter in the absence of his client and that the Respondents were not the owners of the premises in question which plea was not argued before this Court.

3. It is not disputed in the present applications that by a duly authorized vakalatnama executed in favour of the earlier counsel Shri Purshotam Singh, Advocate, he filed the petition and argued the matter. Thus all the terms of the vakalatnama executed by the Petitioner are applicable to him which includes the authority of the counsel to withdraw the case.

4. To buttress the argument regarding inefficiency of the earlier counsel appearing it is stated that the case was not presented properly and despite documents having been given in advance revision petition was filed belatedly and thus an application seeking condonation of delay of 105 days in filing the revision petition was filed. The revision petition having been filed belatedly has no adverse impact on the Petitioner as this Court has already condoned the delay of 105 days in filing the revision petition vide its order dated 22nd April, 2015.

5. In the garb to seek re-hearing of the matter, learned counsel for the Petitioner/applicant states that the Petitioner took a specific ground in the leave to defend application that the Respondents were not the owners of the premises and the property in the revenue records was in the name of the government. It also states that the land has already been acquired by the DDA and thus eviction petition of the Respondents was not maintainable. In Special Land Acquisition Officers, Bombay and others vs. Godrej and Boyce, 1988 (1) SCC 50 and Sheela Jawarlal Nagori and another vs. Kantilal Nathmal Baldota and others, JT 2014 (4) SC 443 the Supreme Court considering the maintainability of an eviction petition by a landlord which was acquired by the government held that as long as the possession of the land is not vested in the government, the original owner is free to deal with the tenant.

6. Consequently, there being no merit in the applications, and the same being a clear abuse of the process of the Court, are dismissed with a cost of Rs.25,000/- to be paid to the Delhi Legal Services Authority within two weeks.

(MUKTA GUPTA)
JUDGE

MAY 19, 2015
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