

*** HIGH COURT OF DELHI AT NEW DELHI**

+ RC. REV. 447/2015 & CM APPL.16855/2015

Decided on: 30th September, 2015

M/S. DASS MOTORS Petitioner

Through: Mr. Arvind Kumar, Advocate.

Versus

ANUJ GUPTA & ANR. Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. The present revision petition has been filed by the petitioner-tenant against the impugned order dated 15.04.2015 by virtue of which the leave to defend application of the petitioner-tenant was rejected and consequently an eviction order was passed in favour of the respondents-landlord and against the petitioner-tenant.
2. The learned counsel for the petitioner has contended that in the instant case although the tenant in respect of the suit property was M/s. Dass Motors, a proprietary concern, the leave to defend has been rejected and an order of eviction has been passed, but as a

matter of fact it has been stated that so far as M/s. Dass Motors is concerned, it was a Partnership concern when tenancy commenced and that the essence of the matter was that said partnership became a proprietary concern of which Mahender Kumar Bhabuta husband of present proprietor petitioner firm, Kavita Bhabuta was the sole Proprietor. After the death of Mahender Kumar Bhabuta in 2012, Kavita Bhabuta became the sole proprietor of M/s. Dass Motors. It has been stated that the eviction petition in the name of M/s. Dass Motors Limited only when no such partnership existed was wrong and such petition was not maintainable.

3. I have gone through the impugned order. The learned Trial Court has rightly rejected this plea of the present petitioner for grant of leave to defend on account of the fact that it was admittedly the case of the respondent that the present petitioner firm was inducted as a tenant in respect of the suit property. In case of proprietary concern, the Proprietor can be sued by a party. Even if the Proprietor is not made a party to a dispute for whatever reasons, the fact of the matter remains that a proprietor can be sued not only in his individual capacity but also in the name of the firm. For this

reason I feel that there is no illegality, impropriety or jurisdictional error in the order passed by the learned ARC. Accordingly, the rent revision is without any merit and the same is dismissed.

4. Since the present petitioner has already availed six months time in terms of Section 14 (7) of the Delhi Rent Control Act, necessary steps be taken by the petitioner/tenant with a view to enable the respondent/landlord to retrieve the possession of the tenanted premises in accordance with law.
5. Pending applications also stand disposed of.
6. File be consigned to record room.

V.K. SHALI, J.

SEPTEMBER 30, 2015

Vk