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

+ CM(M) 640/2015

SOM NATH

..... Petitioner

Through: Mr.P.K.Rawal & Mr.Tarun Agarwal,
Advocates

versus

PADAM CHAND VAISH & ANR

..... Respondents

Through: Mr.Deepak Gupta & Mr.Gauri
Shankar Gupta, Advocates

AND

+ CM(M) 641/2015

BANWARI LAL

..... Petitioner

Through: Mr.P.K.Rawal & Mr.Tarun Agarwal,
Advocates

versus

PADAM CHAND VAISH & ANR

..... Respondents

Through: Mr.Deepak Gupta & Mr.Gauri
Shankar Gupta, Advocates

AND

+ CM(M) 642/2015

ASHOK KUMAR KHURANA

..... Petitioner

Through: Mr.P.K.Rawal & Mr.Tarun Agarwal,
Advocates

versus

PADAM CHAND VAISH & ANR

..... Respondents

Through: Mr.Deepak Gupta & Mr.Gauri
Shankar Gupta, Advocates

AND

CM(M) Nos.640/2015, 641/2015, 642/2015, 643/2015 & 684/2015

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+ CM(M) 643/2015

BANWARI LAL

..... Petitioner

Through: Mr.P.K.Rawal & Mr.Tarun Agarwal,
Advocates

versus

PADAM CHAND VAISH & ANR

..... Respondents

Through: Mr.Deepak Gupta & Mr.Gauri
Shankar Gupta, Advocates

AND

+ CM(M) 684/2015

TARA SINGH

..... Petitioner

Through: Mr.P.K.Rawal & Mr.Tarun Agarwal,
Advocates

versus

PADAM CHAND VAISH & ANR

..... Respondents

Through: Mr.Deepak Gupta & Mr.Gauri
Shankar Gupta, Advocates

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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07.08.2015

1. The petitioners are aggrieved by the order dated 29th June, 2015 passed by the learned Additional Rent Controller.
2. The grievance of the petitioner is that vide impugned order dated 29th June, 2015 while disposing of the applications under Section 151 CPC filed by the petitioners, the learned ARC has expressed views on following two aspects raised in the said applications :-
 - (i) Decree obtained by playing fraud;
 - (ii) Applicability of law of limitation in a petition under Section 14(1)(b) of Delhi Rent Control Act.

3. Mr. P.K.Rawal, learned counsel for the petitioners had drawn the attention of this Court to the said observation and submitted that in the light of views already expressed by the learned ARC, unless the said order is set aside serious prejudice shall be caused to the petitioners as in that case whatever may be argued in objection petition by the petitioners, shall be covered by the observation already made.

4. Mr. Deepak Gupta, learned counsel for the respondents submits that all these petitions can be disposed of by a consent order. Learned counsel for the respondents has submitted that the Executing Court is in the process of hearing the parties on the objections filed by the petitioners. Mr.P.K.Rawal, learned counsel for the petitioners/objectors had already advanced arguments and shortly on behalf of the respondents he would be addressing the learned ARC. Mr. Deepak Gupta, learned counsel for the respondents further submits that since the Executing Court is in the process of hearing final arguments on the objections, the petitioners are at liberty to raise the issue of obtaining eviction decree by allegedly playing fraud as well on the issue of applicability of limitation act in a petition under Section 14(1)(b) of DRC Act and thereafter the Executing Court can dispose of the objection on its own merit.

5. Mr. P.K.Rawal, Advocate appearing on behalf of the petitioners submits that if the learned ARC decides the objections on merits without being prejudiced by the observations made in the impugned order dated 29th June, 2015 then he has no objection if these petitions are dismissed as not pressed with liberty to the petitioners to raise these issues before the learned ARC. It is further submitted by the learned counsel for the petitioners that

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the aggrieved parties may be given liberty to approach this Court against the order disposing of the objections.

6. Mr. Deepak Gupta, learned counsel for the respondents submits that respondents would be having no objection if the learned ARC decides objections on merits without being influenced by the observations made in the impugned order while disposing of the application under Section 151 CPC.

7. In view of the above joint submissions, as prayed, all these petitions being CM(M) Nos.640/2015, 641/2015, 642/2015, 643/2015 & 684/2015 are dismissed as not pressed.

8. Needless to state that the contention raised by the learned counsel for the petitioners on the issue of fraud and limitation shall be dealt with by the learned Executing Court without being prejudiced by the observations made in the impugned order. The aggrieved party has a vested right to avail the remedy as per law and no separate liberty is required to be given for impugning the order which may be passed while disposing of the objections.

CM No.12384/2015 in CM(M) 640/2015

CM No.12386/2015 in CM(M) 641/2015

CM No.12388/2015 in CM(M) 642/2015

CM No.12390/2015 in CM(M) 643/2015

CM No.13389/2015 in CM(M) 684/2015

Dismissed.


PRATIBHA RANI, J

AUGUST 07, 2015

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