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

+ RC.REV. 450/2015

L P MEHRA

..... Petitioner

Through: Mr. Rajeev K. Panday, Advocate with
Ms. Nirmal Mishra, Adv.

versus

MADHU MALA PROPERTIES PVT LTD & ANR..... Respondents

Through: Mr. Advocate (*Appearance not given*)

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

% **15.10.2015**

1. With the consent of the parties, the following order is passed.
2. In the instant case a petition under Section 14 (1) (e) of the Delhi Rent Control Act came to be filed by the respondent against one L.P. Mehra. Since Mr. L.P. Mehra was served through substituted service by way of publication in the newspaper and an order of eviction against him was passed on 27.03.2015.
3. The present revision petition has been filed by one Smt. Seema Bali allegedly a daughter of L.P. Mehra claiming that L.P. Mehra had died on 28.12.2013, that is, much prior to the date of filing of the eviction petition and therefore, the decree of eviction passed on 27.03.2015 against a dead person could not have been passed. To that extent, the decree of eviction against a dead person is not sustainable.

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4. It has been further stated by the learned counsel for the petitioner that apart from Smt. Seema Bali one Alka Bhalla, the other married daughter of L.P. Mehra are the only two legal heirs of L.P. Mehra. It has been further contended that Alka Bhalla had settled in Canada after marriage while as the present petitioner Smt. Seema Bali was living with her husband in property No.16, Daryaganj, New Delhi. It has been further stated by her that she was running a business at the property in question. There is no dispute about the fact that after the death of the tenant there is a limited inheritance in the event of a legal heir not financially dependent on the deceased tenant and not ordinarily living with them in terms of definition of tenant under the DRC Act.

5. Therefore, before any action is initiated, the court will have to be satisfied about question of limited or unlimited inheritance of legal heirs of L.P. Mehra then permit such a person who has inherited tenancy right limited or unlimited to file leave to defend so as to make out a case as to whether a triable issue is raised or not. In case the triable issue is raised then only the leave to defend will be granted and the trial will be conducted. In the event the petitioner is not able to show that she has unlimited inheritance then she would have only limited tenancy for a period of one year from the date of death of Mr. L.P. Mehra and in that event only the court will considering passing an appropriate order for eviction on account of expiry of

said period of one year.

6. With these observations the petition stands disposed of and the order of eviction passed by the Trial Court is set aside with the direction to remand the matter back to the learned Additional Rent Controller to decide the question of inheritance of the tenancy right and thereafter proceed in accordance with law.

7. Pending applications also stand disposed of.



V.K. SHALI, J.

OCTOBER 15, 2015

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