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HIGH COURT OF DELHI AT NEW DELHI

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RC. REV. 683/2015 & CM APPL.31732/2015

Decided on : 21st December, 2015

KAWALJIT KAUR GANDHI & ANR Petitioner

Through: Mr. R.K. Gupta, Advocate

versus

SATBIR SINGH BINDRA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (Oral)

1. I have heard the learned counsel for the petitioner. I have also gone through the impugned order. I do not find that there is any illegality, impropriety or jurisdictional error in the impugned order dated 07.11.2015, by virtue of which the leave to defend has been granted to the respondent-tenant to contest the Eviction Petition, which has been filed by the petitioner on the ground of bonafide requirement.
2. The main reason which this court also feels is a very valid ground for grant of leave to defend is that both the petitioners (petitioner No.1 and petitioner No.2) are the citizens of Canada and USA

respectively and are aged above 70 years. Both of them expressed their desire to live in India. Hence they have filed the Eviction Petition in respect of the property bearing No. 3388-3391, 3392-1/2 and 3416 consisting of ground, first, second and third floor at Gali No.1 D.B. Gupta Road, Regharpura, Karol Bagh, Delhi, where the tenanted portion, which is stated to be with the respondent is situated. The desire of the petitioner to live in India is to be tested through cross-examination when they adduce their evidence. Once the desire is tested by cross-examination, then only it can be known, whether the requirement of the petitioner is bonafide or not. Both the petitioners are consistently living outside India and are not used to live under the conditions and circumstances prevalent in India, where people have to face various problems. Life in Western countries is more smooth and trouble free. Therefore, the tenant, who is respondent herein has rightly raised the question of bonafides of the petitioner in retrieving the properties, apart from raising the plea that they have first and second floor of the suit property available to him.

3. All these facts have been dealt by the learned Additional Rent Controller in its short and crisp order and has held that this is a fit case, where leave to defend deserves to be granted to the respondent.
4. I do not feel that there was anything illegal or improper on the part of the learned Additional Rent Controller in granting the leave to defend. Accordingly the present revision petition is misconceived and is dismissed.

V.K. SHALI, J.

DECEMBER 21st, 2015
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