

\$~A-27

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

+ CM(M) 42/2016

DABENDER KUMAR JOSHI Petitioner
Through Mr.Vivek Kumar, Adv.

versus

A DHINGRA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **11.08.2016**

1. By the present petition the petitioner seeks to impugn the order dated 27.3.2015 and subsequent order dated 2.12.2015. By the order of 27.03.2015 the trial court disposed of the application filed by the defendant/petitioner order under Order 39 Rule 10 CPC.

2. The petitioner and the respondent entered into a lease deed in August 2009 for flat No.B-1/1, Ground Floor comprising of three bed rooms, one drawing-cum-dining room, one kitchen and two toilets situated at Paradise Co-operative Group Housing Society Ltd. Patparganj, Delhi. The lease was to commence from 10.8.2009. The lease deed the deed is an unregistered document. The agreed rent of the flat was Rs.16,500/-. Subsequently, the petitioner is stated to have entered into a tripartite agreement in July 2012 which was also for a period of 11 months from 10.7.2012 to 9.6.2013. The tripartite agreement mentions that the petitioner has paid Rs.6 lacs as an advance to the respondent and that the agreed rent is now Rs.6,500/- per

month. The respondent has now filed a suit for eviction and mesne profits.

3. A perusal of the impugned order dated 27.3.2015 shows that the trial court noted that the lease deed dated 6.9.2009 which was executed between the parties envisaged a rent of Rs.16,500/- per month. The lease expired on 7.9.2010. The lease was extended from time to time. After April 2013, it was concluded that the petitioner remained a tenant at an agreed rent of Rs.24,000/- per month. The tenancy was terminated on 22.2.2014.

4. The contention of the petitioner was noted that the rent was Rs.6,500/- per month for the period 10.08.2009 to 7.9.2010. The petitioner has admitted the earlier rent was Rs.16,500/- per month but he denies that rent was increased to Rs.24,000/-. The trial court noted that the dispute about the rent being Rs.24,000/- per month or Rs.6,500/- per month or Rs.16,500/- per month can only be concluded after the evidence is completed. Noting that the petitioner has admitted the rate of rent at Rs.16,500/- per month the trial court directed that the respondent is entitled to rent at the rate of Rs.16,500/- per month and disposed of the application accordingly.

5. A review was also filed by the petitioner which was dismissed by the impugned order dated 2.12.2015.

6. I have heard learned counsel for the petitioner. In my opinion, there are no reasons to interfere with the impugned order. Admittedly, for substantial period of tenancy the petitioner has been paying rent of Rs.16,500/- per month. I may also note that the apartment in question is a three bedroom apartment which is admittedly in an area of about 1,000 sq. feet. Given the size of the apartment, in my opinion, the rent of Rs.16,500/- per month appears to be closer to the agreed rent. There is no merit in the petition. The present petition is dismissed. The claim of the petitioner of

having paid a security of Rs.6 lacs would have to be adjudicated upon at the stage of disposal of the suit.

JAYANT NATH, J

AUGUST 11, 2016

n