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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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Date of Judgment: 12.01.2016

+ RC.REV. 11/2016

HEMANT KUMAR TALWAR

..... Petitioner

Through Mr.Suresh Sharma, Advocate.

versus

NARENDER KUMAR MANCHANDA & ANR

..... Respondents

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (oral)

C.M. No.1026/2016 (exemption)

1 Exemption is allowed subject to just exceptions. Application disposed of.

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2 The impugned order is dated 07.12.2015. The petition filed by the petitioner seeking eviction of shop bearing no.5319, Hardayan Singh Road, Karol Bagh, New Delhi (rented out for a commercial purpose)

was dismissed by the learned ARC. This order was passed after evidence has been led by the parties.

3 Relevant would it be to note that in the pending proceeding an application seeking leave to defend had been filed by the tenant. The same had been declined and an eviction order had been passed in favour of the petitioner. The High Court was pleased to set aside the order and the matter was remanded back to the ARC to be adjudicate it on merits. It was in this context, that evidence was led by the respective parties. Petitioner had entered into witness box as PW-1. On behalf of the tenant three witnesses had appeared.

4 The Trial Judge after appreciation of the evidence had held that the petitioner is admittedly the owner of the premises; the parties shared a landlord-tenant relationship but the remaining two issues- i.e as to whether the premises were required bonafide by the petitioner and as to whether the petitioner has no other reasonably suitable accommodation had been held against the petitioner/landlord.

5 The impugned order and the evidence on record show that there is no fault in the impugned order. PW-1 (landlord) in his examination-in-chief had deposed that he had filed the present eviction petition for a

shop situated in premises no.5319, Hardayan Singh Road, Karol Bagh, New Delhi which had been tenanted out to his tenant at a monthly rent of Rs.475/-. In his cross-examination, he admitted that out of the two shops located in the said premises one was in his possession and other had been tenanted out. He admitted that the staircase, one passage and two rooms behind the tenanted shop had not been shown by him in the site plan (Ex.PW-1/1). He further admitted that the gali behind the suit property has been shown in the site plan. In another part of his cross-examination he against reiterated that the two rooms behind the tenanted shop including staircase and passage have not been depicted in the site plan. He volunteered that this was because his was a commercial need and not for rooms.

6 In this context it would be relevant to note that it is not the contention of the petitioner that he is a resident of 5319, Hardayan Singh Road, Karol Bagh, New Delhi. His affidavit which he filed in examination-in-chief shows that he is a resident of 37/1, Lower Ground, Left Gate, West Patel Nagar, Delhi. The premises which have been depicted in the site plan do not depict the premises in its entirety. Only two shops i.e. one shop which is under the tenancy of the tenant and the

second shop which is in the possession of the petitioner have been shown; the other two rooms and staircase have not been shown in the site plan. At the cost of repetition, it is not the case of the petitioner that he is residing in this property as is the vehement argument made before this Court wherein the submission propounded by the learned counsel for the petitioner is that this portion was not depicted in the site plan because it was a residential portion. This Court is not inclined to believe this submission.

7 The Trial Judge in this background has committed no fault in dismissing the petition of the petitioner. Impugned order does not called for any interference. Petition dismissed.

INDERMEET KAUR, J

JANUARY 12, 2016
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