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

+ CM(M) 98/2016 & CM No.3317/2016

ALKA SACHDEVA

..... Petitioner

Through Mr.P.K.Rawal, Advocate

versus

SEEMA GUPTA & ORS

..... Respondents

Through Mr.Tara Chand Gupta, Advocate for
R-1, 3 & 4

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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31.08.2016

1. This is a petition filed seeking to impugn the order dated 28.11.2015 by which the application under Section 151 CPC moved by respondent Nos.1 and 4, namely Ms.Seema Gupta and Sh.Neeraj Gupta placing on record certain facts and praying that appropriate direction be issued to the petitioner for effecting service of the eviction petition upon the applicants in compliance with the provisions of the DRC Act.
2. While considering the above application moved by respondent Nos.1 and 4, the trial court vide order dated 28.11.2015 impleaded respondent No.4 Sh.Neeraj Gupta as a party.
3. A perusal of the impugned order shows that the trial court has noted the submission made in the application, namely that applicant Sh.Neeraj Gupta has been paying rent to the petitioner and that earlier also the petitioner has filed a petition under Section 14(1)(b) of the DRC Act where also applicant No.1 has moved an application under Order I Rule 10 CPC

and provided the correct address of the applicants. The trial court also noted that applicant Sh.Neeraj Gupta is in possession of the premises which has not been specifically pleaded in the petition and the same has been denied by the petitioner. Sh.Neeraj Gupta was added as respondent to the petition.

4. The learned counsel for the petitioner submits that the present eviction petition is filed against respondent Nos.1 to 3 who are the tenants of the petitioner. He relies upon the rent agreement dated 09.09.1987 to contend that respondent Nos.1 to 3 are the original tenants. He submits that respondent No.4 Sh.Neeraj Gupta is actually a sub-tenant to whom respondent Nos.1 to 3 have sub-let the property.

5. The petitioner does not recognize respondent No.4 as his tenant. It would be for the petitioner to prove the landlord and tenant relationship with respondent Nos.1 to 3. It would not be for the court to implead respondent No.4 as a party to the present petition. In case, any order is passed, which is likely to prejudice respondent No.4, the remedy of the respondent would be as provided under Section 25 of the DRC Act.

6. Reference may had to Section 25 of the DRC Act, which reads as follows:

“25. Vacant possession to landlord –

Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any order is made by the Controller under this Act for the recovery of possession of such premises the order shall, subject to the provisions of section 18, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such person there from:

Provided that nothing in this section shall apply to any person who has an independent title to such premises.”

7. As per proviso to the said section, an eviction order that may be passed by the ARC shall not apply to any person who has independent title to the suit premises.

8. Hence, in case, an eviction order is passed and which would affect respondent No.4, it would be open to respondent No.4 to object to the same as per law including raising a plea that the order is passed against a wrong person.

9. A similar view is expressed by this court vide order dated 23.08.2016 in CM(M) No.815/2016, titled as ***M/s Gulati Sports v. Madan Mohan.***

10. The impugned order is *set aside* to the above extent only. This court has not dealt with any other issues raised by respondent Nos.1 to 3 in the application.

11. The petition stands disposed of. All the pending applications also stand disposed of.

JAYANT NATH, J.

AUGUST 31, 2016/v