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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 136/2016**
MANOJ KUMAR SANJAY KUMAR

..... Petitioner

Through Mr.Ankit Jain and Mr. Ankur Jain,
Advocates.

versus

SRI KRISHAN SHARMA

..... Respondent

Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **26.02.2016**

C.M. No.7220/2016 (exemption)

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

RC.REV. 136/2016 & C.M. No.7219/2016 (stay)

Petitioner is aggrieved by the impugned order dated 18.11.2015 vide which the right of the petitioner to file written statement stood closed; on the same date eviction order was passed in favour of the landlord. Petitioner is aggrieved by this finding.

Record shows that the eviction petition had been filed by the landlord under Section 14(1)(e) of the Delhi Rent Control Act (DRCA). On 24.3.2015 leave to defend had been granted in favour of the tenant. He was required to file his written statement within 30

days. Written statement was, however, filed only on 25.7.2015 which was after a delay of 90 days. Submission of the learned counsel for the petitioner on this count is that although the order (dated 24.3.2015) granting leave to defend had been downloaded by the learned counsel for the petitioner but that part of the order which had stated that the written statement was to be filed within a period of 30 days was not downloaded and as such the period of time by which petitioner had to file written statement was not known to the learned counsel for the petitioner. This is his explanation for filing the written statement belatedly.

Learned counsel for the petitioner has also drawn attention of this Court to the order dated 30.7.2015 wherein the written statement filed by the petitioner has been furnished to the respondent without any objection and in fact the respondent has taken time to file replication. On 21.7.2015 an application under Order VIII Rule 10 of the CPC had been filed the petitioner. The impugned order had allowed that application and a decree of eviction had been passed.

Apart from the fact that the petitioner is aggrieved by the impugned order, he is also aggrieved by the fact that an eviction order could not have been passed without the petitioner having been given an opportunity to plead his defence.

Noting all these submissions and particularly the order dated 24.3.2015 by which the Trial Court had granted leave to defend to the petitioner and the explanation furnished by the learned counsel for the

petitioner seeking condonation of delay in filing written statement appearing to be justified this Court is inclined to set aside the impugned order subject to costs of Rs.20,000/-. As a necessary corollary, the eviction order is set aside. Written statement already filed before the Trial Court is taken on record. Learned counsel for the petitioner undertakes to inform the learned counsel for the respondent about the next date before the ARC.

Parties are directed to appear before the ARC on 16.3.2016.

With these directions petition disposed of.

INDERMEET KAUR, J

FEBRUARY 26, 2016
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