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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 815/2012 & C.M. No.12197/2012 (stay)

SAROJ JAIN

..... Petitioner

Through Ms. Sonali Malhotra, Adv.

versus

DHARAM PRATAP KOHLI & ANR

..... Respondents

Through Mr. Deepak Sharma, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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23.02.2016

Order impugned before this Court is the order dated 26.03.2012. The Rent Control Tribunal (RCT) had endorsed the order passed by the Additional Rent Controller (ARC). Reliance upon a judgment of the Apex Court in Mohd. Usman delivered in Civil Appeal No. 1906/1987 decided on 26.08.1987 had laid down the ratio that whenever an eviction petition is filed under Section 14 (1)(e) of the DRCA, even if the gap is short, a fresh permission under Section 19 of the Slum Area (Improvement and Clearance) has to be obtained. This was the finding returned in the impugned order.

Submission of the learned counsel for the petitioner that this was case of inheritable tenancy and the tenants do not have a right to stay in the property and in such an eventuality, a fresh permission was not required as the original tenant had died is an argument bereft of merit. Reliance by the learned counsel for the petitioner upon the judgment reported as 44 (1991) DLT 453 Alimuddin Vs. Mohd. Mian & Ors. in this context is misplaced.

Record shows that this eviction petition had been filed against the legal representatives of deceased original tenant in the year 2003-2004. The original tenant had died in 1987. The very fact that the eviction petition had been filed against his legal representatives under Section 14 (1)(e) of the DRCA is based on the premise that the respondents before the Trial Court were recognized as the tenants being the legal heirs of the original tenant. As such the requisite permission under Section 19 of the Slum Area (Improvement and Clearance) Act was required to be taken. The impugned order had endorsed this finding returned by the ARC; these being two concurrent findings of fact suffer from no infirmity.

Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 23, 2016

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