

S-31 & 32

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 74/2016 & C.M. No.17771/2016 & C.M. No.17772/2016
KISHAN LAL

..... Petitioner

Through Mr. Abhinav Tyagi, Adv.
versus

KAUSHALYA DEVI

..... Respondent

Through Nemo.

+ C.R.P. 75/2016 & C.M. No.17826/2016 & C.M. No.17827/2016
PRAKASH @ MUNIMJI

..... Petitioner

Through Mr. Abhinav Tyagi, Adv.
versus

KAUSHALYA DEVI

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **11.05.2016**

The petitioner is aggrieved by the order dated 19.02.2016 which was an order passed on an application filed by the petitioner/tenant seeking review of the order dated 29.07.2015. Vide order dated 29.07.2015, the non-applicant/landlord had sought certain amendments to be made in his eviction petition which according to him were typographical errors. The respondent/tenant had not taken permission to file reply; without reply, the aforementioned application has been heard. The Trial Court had noted that since these were only inadvertent errors and procedures being only a handmaid of justice, the amended petition was taken on record. This was on

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29.07.2015. The petitioner-tenant was not satisfied with this order. He moved a review petition. The review petition was dismissed on 19.02.2016. The Trial Judge had noted that there was no error apparent on the face of the record of the earlier order and as such the application seeking review of the order was mis-conceived. Learned counsel for the petitioner in support of this submission that until and unless the leave to defend had been granted to him, the amended petition could not have been heard by the Court has placed reliance upon a judgment of Bench of this Court reported in AIR 1982 Delhi 298 Jagdish Pershad Vs. Hardayail Singh. Attention has been drawn to para 3 of the said judgment. The ratio sought to be canvassed before this Court is not contained in the said judgment; paragraph 3 of the judgment in fact merely enunciates the procedure which is to be followed in a petition under Section 14 (1)(e) of the DRCA; the procedure is contained in Section 25-B of the DRCA. In that judgment, the Court has reiterated this procedure and has held that proceedings for amendment of a petition by the landlord were well maintainable in an eviction petition and even though a summary procedure is contained in Section 25-B of the DRCA, it does not preclude the application of the Code of Civil Procedure to those proceedings. The vehement submission of the learned counsel for the petitioner that until and unless his application seeking leave to defend was permitted and granted to him, the application for amendment could not have been taken up for hearing by the ARC is not only an argument but appears to be malafide. This Court has gathered the impression that the tenant is trying to gain time at every stage and this

is one such glaring example.

Petition being mis-conceived is dismissed with costs of Rs.10,000/-.

INDERMEET KAUR, J

MAY 11, 2016

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