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

+ CM(M) 475/2016 & CM No.18467/2016

SUNDER SINGH (DECEASED) THR LRS Petitioner
Through Mr.R.K.Saini, Advocate

versus

DARSHAN LAL & ANR Respondents
Through Mr.Ankit Jain & Mr.Sarvesh Rai,
Advocates

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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18.11.2016

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 11.04.2016 by which an application filed by the petitioner/landlord under Order 7 Rule 14 CPC to place on record photographs has been dismissed.
2. The petitioner has filed an eviction petition against the respondent under Section 14(1)(b) of the Delhi Rent Control Act, 1958 (*hereinafter referred to as the 'DRC Act'*) i.e. on the ground of sub-letting. The original eviction petition was allowed by *ex-parte* order dated 20.11.2008. Against the same, the respondent filed an appeal which was allowed on 30.11.2012. The matter was remanded back to the ARC.
3. In the meantime, the petitioner took possession of the premises in question pursuant to the eviction order and the possession is now with him.
4. I have heard the learned counsel for the parties.
5. The learned counsel appearing for the respondent has vehemently

opposed the petition pointing out, firstly, that there has been a misuse of the process of the court by the petitioner. He points out that on 27.08.2016 before the ARC deliberately a wrong statement was made to take an adjournment. He places on record a copy of the order whereby it is noted that the petitioner has submitted that there is a stay of the further proceedings by this court. In fact, there was no stay order passed by this court. Secondly, he submits that the Rent Control Tribunal while allowing the appeal has specifically noted that the respondent shall be granted a single opportunity to cross-examine the witness which has been examined by the petitioner while the respondent was to get two opportunities to complete their evidence. He submits that this is an attempt to over reach the order of the tribunal dated 30.11.2012. Thirdly, he submits that the facts which were sought to be brought on record, relating to the photographs, were known to the petitioner and the photographs cannot be taken on record.

6. The photographs of which the petitioner allegedly seeks to place on record are bonafide as the petitioner tries to show that respondent No.1 is working in some other premises and respondent No.2 the alleged sub-tenant is operating the shop.

7. It is no doubt true that the petitioner could have filed such photographs earlier. However, cross-examination of the witness of the petitioner is yet to commence. The petitioner has already filed an additional affidavit whereby he has exhibited the photographs in questions. The matter is fixed for cross-examination of PW-1 and PW-2 on 24.11.2016.

8. In the light of the above and in the given facts, the photographs are crucial documents to support the case of the petitioner, in the interest of justice, the present petition is allowed. The photographs alongwith the

additional affidavit is taken on record.

9. Regarding the wrong statement made before the ARC by the petitioner to take an adjournment, the learned counsel for the petitioner apologizes for the same. He submits that he had an impression when the matter was argued that this court had passed a stay order. In view of the explanation given, I take a lenient view of the same. However for belated filing of the photographs and for this conduct of the petitioner, I impose a cost of Rs.10,000/- on the petitioner, which is to be paid before the ARC on the next date of hearing. The relief to the petitioner will be subject to the payment of the cost before the ARC as above.

10. With the above observations, the present petition is disposed of. All the pending applications are also disposed of.

JAYANT NATH, J.

NOVEMBER 18, 2016/v