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

Date of Decision: August 04, 2016

+ **EX.F.A. 15/2016 & C.M.23480/2016**

RAJ SANDHU Appellant
Through: Mr. R.K. Sharma and Mr. Anshul
Malik, Advocates

versus

RAHUL ANAND & ANR.Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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1. In execution proceedings pertaining to a decree for possession in respect of property i.e. LIG Flat No. 48/C, LIG, Madhuban Enclave, Madipur, Rohtak Road, New Delhi (*hereinafter referred to as the 'suit property'*) filed by decree holder/ respondent No.1 against respondent No.2-Judgment Debtor, appellant herein claiming to be in possession of the suit property as a tenant under *Shri Hari Ram Kardam* had filed objections to the execution of the decree which stands dismissed by the learned Executing Court vide impugned order of 29th April, 2016

(Annexure A-2), which is assailed in this appeal.

2. The facts which give rise to this appeal already stand noted in the impugned order and need no reproduction.

3. According to learned counsel for appellant/objector, she was inducted as a tenant in the suit property in the year 2005 at a monthly rent of ₹800/- inclusive of house tax and she claims to have paid the rent to the landlord-*Shri Hari Ram Kardam* up to 31st March, 2011 in cash but according to her, no rent receipt was issued by the landlord.

4. At the hearing, it was submitted by learned counsel for appellant-objector that she has been depositing the rent with the court concerned under Section 27 of *The Delhi Rent Control Act* since the year 2004 till date. Although there is no Rent Agreement or Rent Receipt to establish that the appellant-objector was ever a tenant in the suit property but in the objections filed, appellant/objector had relied upon property tax deposit receipt of ₹11,350/- on 16th June, 2010 and subsequent deposit of property tax of ₹310/- for the period 2011-12 on 10th May, 2011.

5. The objections filed by the appellant-objector have been dismissed by the learned Executing Court while observing that the plea of oral tenancy and absence of rent receipts are sufficient to throw out the objections of the appellant-objector, as the appellant-objector had failed to enquire as to how come in the year 2010, the landlord had transferred the electricity meter in the name of the decree holder.

6. During the course of hearing, it was submitted by learned counsel

for appellant-objector that she was not a party to the suit for eviction which was decreed *ex parte* and the respondent-decree holder was very much aware that the appellant-objector was in possession of the suit property and so, the impugned order rejecting appellant's objections, ought to be set aside as triable issues are raised by appellant-objector which need to be tried.

7. Upon hearing learned counsel for appellant at length and on perusal of the impugned order and the material on record, I find that the objections filed by the appellant are quite vague as it is not disclosed when the appellant had insisted upon *Shri Hari Ram Kardam*, the alleged landlord, to issue the rent receipts and the details of the rent deposited and for which period, is not forthcoming in the objections filed by the appellant. In any case, it appears that appellant is just a trespasser in the suit premises and just to legalize her illegal possession in the suit property, she may have deposited few thousand of rupees with the Additional Rent Controller concerned.

8. Copy of the property tax receipts do not disclose that the property tax has been deposited by appellant. Although it is the case of appellant that she had paid the electricity bills, but there is nothing on record to substantiate it. The plea of oral tenancy coupled with the absence of rent receipts amply justifies the rejection of appellant's objections, in the absence of any supporting documents. It is not the case of the appellant that she was unaware when the decree holder had got the electricity meter of the suit premises transferred in his name.

9. Viewed from any angle, I do not find any illegality or infirmity in the impugned order. This Court finds no substance in this appeal and as such, this appeal and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

AUGUST 04, 2016

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