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

+ CM(M) 681/2015 & CM NO. 13100/2015

INDER PAL SINGH & ANR

..... Petitioners

Through

Mr. Sonali Malhotra and Mr. Amit Sanduja, Advcates

versus

RAJIV GUPTA

..... Respondent

Through

Mr. Shekhar Gupta and Mr. P. Sachadeva, Advocates

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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04.04.2016

Counsel for the petitioner submits that the RCT would be dealing with the question of law only and the factual matrix in the instant case was that it is a factual point which has been declined by the ARCT as such the present petition would be maintainable.

Arguments have been heard.

The prayer made in the application filed by the petitioner / tenant in the Trial Court (under Order VIII Rule 1) seeking permission of the Court to place on record the lease deed purported to have been executed between the petitioner Rajeev Gupta and Smt. Darshana Kumari had been declined. Record shows that the present petition is a petition under section 14(1)(a) of DRC Act which has been filed by the landlord Rajeev Gupta against his tenant Inderpal Singh and Ors. This was on the ground of non payment of rent. In the written statement which was filed by the landlord in para 3 of the written statement clearly averred that two separate lease deeds dated

26.05.2007 were executed between the petitioner / landlord and Sh. Shamsher Singh and petitioner / landlord and Smt. Darshana Kumari. Both of them were for a rental of Rs. 8,000/- each. The landlord had agreed to pay a sum of Rs. 16,000/- to the tenants as a commission for striking the deal of the said premises as this tenant was also the person who struck the transaction between the landlord and Smt. Darshana Kumar and as per this averment in the written statement he was entitled to commission. This amount was not paid to the landlord and according to tenant (in terms of para 3 of the written statement) this amount of Rs. 16,000/- was to be adjusted qua the rent of the tenanted premises @ Rs. 605/- per month for a period of 26 months commencing from November, 2006. It was this document which was sought to be taken on record which was declined by the impugned order.

This application was filed at the stage when the issues were framed but evidence was yet to be led. The submission of the learned counsel for the petitioner it was due to an inadvertent error that this document was not placed on record is clear from the fact that in the written statement this ground has been specifically averred; this explanation is thus justified. Impugned order is set aside. Subject to cost of Rs. 5,000/- this document is taken on record.

Petition disposed of.

INDERMEET KAUR, J

APRIL 04, 2016

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