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

+ **CM(M) 815/2016**

M/S GULATI SPORTS

..... Petitioner

Through

Mr.Sudhir Nandrajog, Sr. Advocate
with Mr.Rishi Manchanda, Advocate

versus

MADAN MOHAN

..... Respondent

Through

Mr.Ravi Gupta, Sr.Advocate with
Mr.Rajiv Bajaj & Ms.Bhoomija
Verma, Advocates

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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23.08.2016

CM No. 30619-30620/2016 (exemptions)

Allowed subject to all just exceptions.

CM(M) 815/2016 & CM No. 30618/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 25.05.2016 by which the application filed by the petitioner under Order I Rule 10 CPC was dismissed by the ARC.
2. The respondent/landlord had filed the present petition under Section 14(1)(e) of the DRC Act seeking eviction of one Sh. D.S. Gulati from Shop No.240/5, First Floor, Post Office Street, Sadar Bazar, Delhi-110006.
3. It was the contention of the petitioner that the tenant of the premises is not Sh. D.S.Gulati but the firm M/s.Gulati Sports. Hence, it was urged that the petitioner was a necessary and proper party to be impleaded in the said eviction petition.

4. The learned senior counsel appearing for the petitioner has relied upon the certificate of registration of the firm issued by the Sales Tax Authority to contend that these documents show that the petitioner firm has its office/place of work at the said premises. He submits that Sh.D.S.Gulati, the respondent in the eviction petition and two other persons are partners of the petitioner firm. He also submits that it is possible that in case an eviction order is passed against the Sh.D.S.Gulati and in favour of the respondent, the petitioner firm may be held to be bound by the said order inasmuch as Sh.D.S.Gulati is a partner of the firm.

5. The learned senior counsel for the respondent has opposed the present petition. He has stated that so far as the respondent/landlord is concerned, the tenant is Sh.D.S.Gulati. He also relies upon a judgment of this court in ***Madan Mohan v. M/s Gulati Sports***, decided on 26.04.2016. That proceeding pertains to a property on the ground floor of the same property where the tenant was said to be Sh.Kuldeep Singh, also a partner of M/s Gulati Sports and the respondent/landlord is the respondent. In that petition also the present petitioner has filed an application for impleadment which was allowed by the ARC. This court *set aside* the order of the ARC.

6. The present eviction petition is filed by the respondents/landlord stating that their tenant is Sh.D.S.Gulati. It is for the respondent/landlord to show the relationship of landlord and tenant. It would not be for this court to implead a party who claims to be a tenant but whom the respondent/landlord does not accept as a tenant.

7. The concern of the petitioner is that in case a decree is passed against Sh.D.S.Gulati, it may be executed against the firm on the plea that Sh.D.S.Gulati is partner of the petitioner firm.

8. Reference may had to Section 25 of the DRC Act, which reads as follows:

“25. Vacant possession to landlord –

Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any order is made by the Controller under this Act for the recovery of possession of such premises the order shall, subject to the provisions of section 18, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such person there from:

Provided that nothing in this section shall apply to any person who has an independent title to such premises.”

9. As per proviso to the said section, an eviction order that may be passed by the ARC shall not apply to any person who has independent title to the suit premises.

10. Hence, in case, an eviction order is passed against Sh.D.S Gulati, it would be open to the petitioner to object to the same as per law including raising a plea that the order is passed against a wrong person.

11. The petition stands disposed of.

JAYANT NATH, J.

AUGUST 23, 2016/v