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

+ RC.REV. 448/2016

M/S CHET RAM SANJAY KUMAR Petitioner
Through Mr.D.K.Rustagi, Ms.Medha Arya and
Mr.Gaurv Kr. Seth, Advocates.

Versus

RAJENDER PRAKASH GUPTA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **20.09.2016**

CM NO.34036/2016 (exemption)

Exemption is allowed subject to all just exceptions.

RC.REV. 448/2016 and CM No.34035/2016 (stay)

1. Learned counsel appearing for the petitioner has pointed out that there were three main pleas raised by the petitioner in his application for leave to defend, namely, (i) that the petitioner had attained the status of permanent tenant inasmuch as pursuant to the dissolution deed he has carried out construction of walls and other steps have been taken. He has relied upon the judgment of the Supreme Court in the case of *Atyam Veerraju & Ors. vs. Pechetti Venkanna & Ors., AIR 1966 SC 629* to support his contention about his rights as a permanent tenant; (ii) the respondents are in occupation of the entire larger shop whereas the petitioner has only 1/3rd share of the shop as a tenant. He submits that it is, on the face of it, a case of additional

accommodation which requires additional evidence; and (iii) the eviction petition is itself mala fide as the respondent has commenced business which is in competition with the business of the petitioner and hence, they want the petitioner to be ousted from the suit premises.

2. A perusal of the impugned order passed by the ARC shows that none of these submissions has been dealt with. When this was put to the learned counsel for the petitioner, he has made a categorical averment that these submissions were argued before the ARC but have not been dealt with by the impugned order. In view of the settled legal position, it is appropriate to grant liberty to the petitioner to file a review petition before the trial court to bring it to the notice of the trial court the said contentions.

3. Granting the said leave and liberty, the present petition is dismissed as withdrawn.

4. In case such a review petition is filed by the petitioner within 10 days from today, the trial court is requested to consider the same as per law and dispose of the same within four months from the date of filing of the review petition.

5. Till the disposal of the review petition, there shall be a stay of the operation of the eviction order.

6. Copy of the order be given Dasti under the signatures of the Court Master.

JAYANT NATH, J

SEPTEMBER 20, 2016
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