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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 231/2015 & C.M. Nos.8747/2015 & 25430/2015
SATPAL BHOLA & ANR

..... Petitioners

Through Mr. Dhruv Kumar, Adv.
versus

NARESH KUMAR

..... Respondent

Through Mr. Amiet Andlay and Mr. Arun K.
Sharma, Advs.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **15.03.2016**

The petitioner is aggrieved by the impugned order dated 29.01.2015 vide which the application filed by the tenant seeking leave to defend in a pending eviction petition under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA) had been dismissed. The petitioner/tenant is aggrieved by the said finding.

Eviction petition discloses that the petitioner is the son of Prem Kumar. He along with his brother had inherited the suit shop which is a part of property bearing No. A-23, Main Market, Village Garhi, East of Kailash, New Delhi. Eviction petition discloses that the income of the petitioner is Rs.45,000/- per month which is not sufficient to meet his family expenses. Accordingly, he wants to open a general store to meet his expenses and to increase the monthly income; the suit property which is a shop measuring 10' X 8' feet (80 square feet) is required by the petitioner for his bonafide need.

The application seeking leave to defend had been filed by the

tenant. His contention is that the landlord is the owner of the entire property which is A-23, Main Market, Village Garhi, East of Kailash which he has inherited from his father along with his brother. The petitioner has not come to the Court with clean hands. The site plan has not depicted the site correctly; the landlord has admitted that he is getting Rs.45,000/- per month as rent and wishes to augment his income; his submission that he is unable to meet the family expenses is not borne out from the averments as the details of his family expenses have admittedly not been given in the eviction petition. Contention being that this property at A-23, Main Market, Village Garhi, East of Kailash comprises of three floors and the entire property is in the possession of the petitioner and his brother. The area is 6480 square feet. The petition has not been filed bonafide, triable issues have arisen as the expenses of the petitioner have not been disclosed and since he is already earning a handsome income i.e. Rs.45,000/- per month as his rental income. A candid query has been put to the landlord who is present in Court and he admitted that he and his brother are jointly earning Rs.90,000/- as rent of which Rs.45,000/- falls to the share of the petitioner.

Record discloses that the family expenses of the landlord/petitioner have not been disclosed. When admittedly he is getting Rs.45,000/- per month and how he will augment his family income from this 80 square feet shop and what amount he proposes to earn to increase this family income; especially when the details of the family expenses are not given, this Court is of the view that triable issues on this count have arisen entitling the tenant for a leave to

defend.

Accordingly, the impugned order is set aside. The petitioner/tenant is granted leave to defend. Written statement be filed within three weeks with advance copy to the learned counsel for the landlord who may file rejoinder before the next date.

Parties to appear before the ARC on 22.04.2016.

Petition disposed of.

INDERMEET KAUR, J

MARCH 15, 2016

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