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

+ RC.REV. 255/2015 & C.M. No.9288/2016

PANDU

..... Petitioner

Through Mr.G.S.Narula and Mr. M.Sarwar,
Advocates.

versus

BIRMA DEVI @ BRAHAMA DEVI

..... Respondent

Through Mr.Sachin Aggarwal, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **29.03.2016**

The affidavit in terms of the last directions has not been filed by the respondent.

Petitioner is aggrieved by the impugned judgment dated 13.4.2015 wherein his application seeking leave to defend in a pending proceedings under Section 14(1)(e) of the Delhi Rent Control Act had been dismissed. His contention is that triable issue had arisen but the Trial Court had failed to note this in the correct perspective. The eviction petition has been perused. The application seeking leave to defend was admittedly filed within the stipulated period. Perusal of the application shows that the petitioner has 60 shops in the same area i.e. at Kuchha Bagh, Chandani Chowk, Delhi. The fact that the respondent/landlord has 60 shops is admitted. Further contention in the application (para 12) that in recent time the landlord had got vacated shop nos.21 and 38 in the same building and rented out the same at the exorbitant rate to some other persons. To substantiate this

submission rent receipts of shop no.38 have been placed on record in the Trial Court which substantiate that earlier the rate of rent was Rs.500/- which in the year 2012 was enhanced to Rs.1500/-. The name of the earlier tenant Laxmi Narayn Gupta & Sons had also been changed in the latter receipts; the name of the tenant has been described as Ravinder Kumar Gupta S/o Shriram Gupta. Learned counsel for the respondent/landlord at this stage submits that the tenant in fact remains the same. The name of the second tenant in the latter receipt is in fact of the partner of Laxmi Narayan Gupta & Sons who was the son of the first tenant. This submission has not been answered by the landlord in his reply to the application seeking leave to defend. This is an oral explanation which has been tendered before this Court. This Court is thus of the view that triable issue has arisen. The impugned order having dismissed the application seeking leave to defend thus suffers from infirmity. The impugned order is set aside.

Parties are directed to appear before the ARC on 29.4.2016. Petitioner (respondent in the Trial Court) is directed to file written statement within three weeks from today with advance copy to the landlord (petitioner in the Trial Court) who may file replication before next date.

With these directions petition disposed of.

INDERMEET KAUR, J

MARCH 29, 2016/ndn