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

+ CM(M) 1017/2016 and CM No. 37058/2016 (stay)

PRAKASH CHAND

..... Petitioner

Through Mr.Pramod Ahuja, Advocate

versus

RAM NARAIN & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

04.10.2016

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1. By the present petition, the petitioner seeks to impugn the order dated 23.08.2016 by which an application under Order 7 Rule 11 CPC filed by the petitioner was dismissed and the order dated 18.12.2012 by which an application filed by respondent No.2 under Order 1 Rule 10 CPC was allowed.

2. The suit is filed by respondent No. 1 for possession, recovery of arrears of rent, mesne profits/damages. It is averred that respondent No.1 is the owner of the property at Shiv Park, New Delhi and the petitioner is a tenant at a monthly rent of Rs. 5,000/-. Based on these averments, the plaint has been filed. The petitioner in his written statement has taken the plea that there exists a relationship of landlord and tenant and the tenancy is within the purview of the Delhi Rent Control Act and the suit is barred under Section 50 of the said Act. He states that the agreed rent between the parties

is Rs.1200/- per month.

3. Subsequently, an application under Order 1 Rule 10 CPC was moved by one Sh. Bhanwar Singh/respondent No.2 stating that the property has been purchased by him on 11.05.2010 based on a General Power of Attorney. He sought impleadment as a plaintiff with a permission to take part in the future proceedings. The trial court vide impugned order dated 18.12.2012 recorded the statement of the applicant/respondent No.2 and allowed the application.

4. The order dated 18.12.2012 is challenged now after a lapse of more than 2-1/2 years stating that an attorney cannot be impleaded as a party based on a mere general power of attorney. Learned counsel for the petitioner submits that the said attorney, namely, Sh. Bhanwar Singh has no right, title or interest in the suit property and relies upon the judgment of the Supreme Court in the case of *Suraj Lamp & Industries Pvt. Ltd. vs. State of Haryana & Anr. 2012(1) SCC 656*.

5. In the case of *Suraj Lamp & Industries Pvt. Ltd. vs. State of Haryana & Anr.(supra)*, it was noted that the judgment would not apply to stated transactions. Even otherwise, the present challenge which has come after 2-1/2 years is liable to be dismissed on the ground of being belated and stale. Further, the petitioner is admittedly a tenant. It does not lie with the petitioner to challenge the title of the respondent in the manner it is sought to be done.

6. As far as Order 7 Rule 11 CPC is concerned, a reading of the plaint shows that a clear cause of action is disclosed in favour of the respondent. The plaint avers that the petitioner is a tenant and his tenancy has been terminated by means of a legal notice dated 13.01.2006. The plaint discloses

a cause of action. There is no reason to interfere with the impugned order dismissing the application under Order 7 Rule 11 CPC.

7. The petition is without merit and is dismissed.

JAYANT NATH, J

OCTOBER 04, 2016

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