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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 53/2015 & C.M. No.1166/2015

JAGDISH PRASHAD & ORS

..... Petitioners

Through Mr. Rajinder Dutt, Adv.

versus

VINOD KUMAR & ORS

..... Respondents

Through Mr. Ravi Sharma, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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12.02.2016

This petition is directed against the impugned order dated 19.11.2014 wherein the application filed by the respondents seeking impleadment of the other legal representatives of deceased tenant had been allowed. The petitioner/landlord is aggrieved by this order.

Record shows that the present eviction petition had been filed by the landlord Jagdish Prashad and Madan Pal under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA). The three tenants Duli Chand, Banwari Lal and Beeru died during the pendency of the eviction petition. The legal representatives of each of the three tenants were brought on record. They were those legal representatives who had been staying in the premises after the original tenants had died.

The said tenants (who were living in the premises) had on 23.07.2014 thereafter moved an application under Order 1 Rule 10 of the CPC i.e. after a lapse of more than 25 years of the pendency of the

eviction petition.

The submission of the learned counsel for the petitioner/landlord is that this was nothing but a delaying tactic. Learned counsel for the petitioner submits that the impugned order impleading the other respondents as parties in the eviction petition was clearly an illegality in view of the judgment of a Bench of this Court reported as 161 (2009) DLT 511 Krishan Kumar Alag Vs. Jambu Prasad Jain Decd. Thr. LR Anand Kumar Jain,

This argument has been refuted. Learned counsel for the respondents has placed reliance upon AIR 1958 SC 886 Razia Begum Vs. Sahebzadi Anwar Behum and Others as also 200 (2013) DLT 499 (DB) V.N. Verma Vs. Veena Mahajan.

Record as noted supra is correct. In the eviction petition filed by the landlord against the three tenants, all the three tenants during the pendency of the eviction petition had died. Their legal representatives (who were living in the suit premises) had been brought on record. The present application has been filed after a lapse of 25 years. The impugned order allowing the proposed respondents (other legal heirs of the deceased original tenants who were admittedly not living in the suit premises and whose interest was not in conflict with the other legal heirs who were already on record as also the admitted position that this application was not filed by any proposed respondent thus suffers from a clear illegality.

After the death of the original tenants, the legal representatives inherited the property as joint tenants and not as a tenants in their individual capacity; they did not have any individual right in the suit

premises. The judgment of Krishan Kumar Alag clearly lays down this proposition. Relevant extracts read as under:-

“It was not necessary for the landlord to implead all the brothers of the petitioner as a party. It is well settled law that after death of the tenant, his legal heirs inherit the property as joint tenants and if one of them alone occupies the tenanted premises, it is considered that others have surrendered their rights in his favour. LRs are not considered tenants-in-common so as to have separate and severable rights in the tenanted premises. It is sufficient if the L.R. in occupation of the tenanted premises are made as a party and it is not necessary to bring on record each and every L.R. of the deceased.”

Impugned order in this background suffers from an infirmity. It is accordingly set aside. The application under Order 1 Rule 10 of the CPC is dismissed.

Petition allowed in the above terms.

INDERMEET KAUR, J

FEBRUARY 12, 2016

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