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

+ **RC.REV. 587/2016 & CM APPL. 45297-98/2016**

UMA SHANKAR Petitioner
Through Mr.Sumit Kr.Khatri, Advocate

versus

BANSHI DHAR SHUKLA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

% **ORDER**
20.12.2016

CM Nos.45297/2016 (exemption)

Allowed subject to all just exceptions.

RC.REV. 587/2016 & CM APPL. 45298/2016(stay)

1. By the present petition filed under Section 25(B)(8) of the Delhi Rent Control Act, 1958 (*hereinafter referred to as the 'DRC Act'*), the petitioner seeks to challenge the order dated 25.07.2016 by which an eviction order was passed.

2. The case of the petitioner is that he received summons in the application under Section 151 of the CPC filed by the respondent and accordingly, not conversant with the English language and law he thought he has to appear on 02.11.2015. He did not file any application for leave to defend within 15 days.

3. The ARC relying on the judgment of the Supreme Court in the case of *Prithipal Singh v. Satpal Singh (dead)*, (2010) 2 SCC 15, held that the court

had no power to condone the delay in filing an application for leave to defend.

4. The learned counsel for the petitioner has argued that the petitioner has been living in the suit property since 1971 and great prejudice would be caused to the petitioner.

5. It was put to the learned counsel for the petitioner as to whether the notice in English language is on record. No such copy of the notice has been filed.

6. The Supreme Court in the case of ***Prithipal Singh v. Satpal Singh, (supra)***, has clearly held that there is a statutory time period of 15 days for filing leave to defend application. The time limit is inflexible. Merely because the petitioner is not conversant with the English language and law, would not be a ground to condone the delay for the petitioner. Relevant portion of the judgment reads as follows:

“16. From a careful perusal of Sub-section (4) of Section 25B of the Rent Act, it would be clearly evident that the tenant shall not be permitted to contest the prayer for eviction unless he files an affidavit before the Controller stating the ground on which he seeks to contest the application for eviction and obtains leave from the Controller. This Section also clearly indicates that in default of his appearance in compliance with the summons or his obtaining such leave, the statement made by the landlord in the eviction proceeding shall be deemed to be admitted by the tenant and the landlord shall be entitled to an order for eviction on the ground mentioned in the eviction petition. At this stage, we may also note that in Sub-section (4) of Section 25B of the Rent Act read with Third Schedule, it has been made clear by the Legislature that if the summons of the proceeding is received by the tenant, he has to appear and ask for leave to contest the eviction proceeding within 15 days from the date of service of notice upon the tenant and if he fails to do

so, automatically, an order of eviction in favour of the landlord on the ground of bona fide requirement shall be made.”

7. Keeping in view the above judgment of the Supreme Court and the legal position under Section 25-B of the DRC Act there is no merit in the present Revision Petition. Same is dismissed.

JAYANT NATH, J

DECEMBER 20, 2016/v