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

+ CM(M) 1177/2016

DEEPAK CHUGH

..... Petitioner

Through Mr. Ankit Jain and Mr. Sarvesh Rai,
Advocates.

versus

MAHESH KUMAR & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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18.11.2016

CM No. 42619/2016 (exemption)

Allowed subject to all just exceptions

CM(M) 1177/2016 and CM No. 42618/2016 (stay)

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 22.05.2015 of the Additional Rent Controller (ARC) dismissing the application filed under Order VII Rule 11 CPC by the petitioner. Earlier the petitioner had impugned the order dated 22.05.2015 before the tribunal. The appeal was withdrawn on 05.10.2016 with liberty to take appropriate steps.
2. The respondent has filed the eviction petition under Section 14(1)(e) of the Delhi Rent Control Act (DRC Act).
3. The petitioner filed an application under Order VII Rule 11 CPC

stating that the essential requirements of Section 14(1)(e) of the DRC Act envisage apart from others that the landlord has no other reasonably suitable alternative accommodation for his requirement. As per the application, the landlord/respondent has failed to plead that the respondent has no other reasonably suitable alternative accommodation. It was the stand of the petitioner that in the absence of such a pleading, the eviction petition is liable to be rejected.

4. The ARC by the impugned order dismissed the application holding that in the application seeking leave to defend, the petitioner has not taken the plea which is raised in the application under Order VII Rule 11 CPC. The ARC further concluded that as no additional facts can be allowed to be pleaded at this stage, the application was dismissed.

5. I have heard the learned counsel for the petitioner.

6. In my opinion the ARC has rightly dismissed the application under Order VII Rule 11 CPC. However, I may add that the reasons given by the ARC for dismissal of the application are not entirely correct. In the application under Order VII Rule 11 CPC, the petitioner does not seek to introduce any new facts on record. He is taking a legal plea.

7. Section 14(1)(e) of the DRC Act reads as follows:-

“14. Protection of tenant against eviction.- (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by and court or Controller in favour of the landlord against a tenant: Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:-

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(e) That the premises let for residential purpose are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof , or for any person for whose benefit the premises are held and the landlord or such person has no other reasonably suitable residential accommodation;”

8. As noted in a catena of judgements the essential ingredients which a landlord/respondent is required to show for the purpose of getting an eviction order for bona fide needs are (i) the respondent is the owner/landlord of the suit premises (ii) the suit premises are required bona fide by the landlord for himself and any of his family members dependant upon him. (iii) the landlord or such other family members has no other reasonable suitable accommodation.

9. It is implicit that while considering the application of the petitioner seeking leave to defend, the ARC would have to consider as to whether the respondent/landlord has met the statutory requirements as envisaged under Section 14(1)(e) of the DRC Act. In the eventuality the said requirements not being fulfilled, it is implicit that at that stage, the leave to defend would be granted or the petition would be dismissed. The plea raised by the petitioner would have to be considered at the time his leave to defend application is heard.

10. There are no reasons to interfere with the impugned order. With the above observations, the present petition is dismissed.

11. All pending applications, if any, also stand dismissed.

NOVEMBER 18, 2016/rb

JAYANT NATH, J