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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 395/2015 & C.M. No13823/2016.
INDER SAIN DUA Petitioner
Through Mr.Sandeep Duta, Advocate.

versus

ABID UL ISLAM Respondent
Through Mr.J.P.Sengh, Sr. Adv. with
Mr.Mohd. AnisUr-Rehman and Mr.
Rohit Sharma, Advocates

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **07.04.2016**

Petitioner/tenant is aggrieved by the order dated 05.5.2015 wherein leave to defend had been declined; the eviction petition filed by the landlord under Section 14(1)(e) of the Delhi Rent Control Act had been decreed in favour of the landlord.

Record shows that the suit property comprises of two shops i.e. the shops bearing no.5401/9 and 5401/10, Sadar Bazar, Delhi; both of them cumulatively measures 452 sq. feet. The petitioner/tenant is a tenant in the suit premises since 1960 and he is running his business since then. The eviction petition discloses that the landlord requires these premises for his bona fide need which is the need of the landlord to carry on his business of shoes; he has no other reasonably suitable property from where he can carry on this business. He was earlier carrying on his business from the premises of his cousin brother at Bali Maran. He now wishes to carry on his business from

his own accommodation. Accordingly, the eviction petition was filed.

In the application seeking leave to defend several triable issues were raised. One of them was qua the relationship of landlord and tenant. This is not being discussed as it is not relevant in view of the second argument which has been raised by the learned counsel for the respondent-landlord. Learned counsel for the respondent-landlord submits that in connected petitions which had been filed by the tenant which includes the suits filed by him under Section 31 of the Punjab Relief and Indebtedness Act he admitted the status of the present petitioner Abidul Islam as landlord thus it does not lie in the mouth of the tenant-petitioner to state that there is no jural relationship of landlord-tenant with the landlord-respondent. This argument is not being dealt with any further as this Court is of the view that the triable issue has arisen on account of the fact that the tenant has specifically pleaded the ground of alternate accommodations; this finds mention in para 24 of the application. The details are contained in that paragraph. In the corresponding paragraph of the reply filed by the landlord there is no specific denial qua these alternate accommodations which are available with the landlord. He has only stated that these properties are not in his physical possession. What is the status of these properties- whether they all belong to him; whether they are tenanted out; in whose possession they are, has not been detailed. These evasive denials create a suspicion in the mind of the Court and the submission of the learned counsel for the petitioner that triable issue has arisen persuades this Court to hold this in favour of the tenant. The averments contained in the corresponding para 24 in

the reply filed by the landlord to the application seeking leave to defend are noted. Triable issue has arisen on this count. Leave to defend is accordingly granted in favour of the tenant. The impugned order is set aside.

Written statement be filed by the tenant in four weeks with advance copy to the landlord who may file replication before next date.

Parties are directed to appear before the Additional Rent Controller on 09.5.2016.

Petition disposed of.

INDERMEET KAUR, J

APRIL 07, 2016

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