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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 617/2015 & C.M. No.28399/2015**
ANUP KUMAR VERMA

..... Petitioner
Through Petitioner with his counsel Mr. Ankur
Garg, Mr. Saugata Ganguly, Mr. Rohit
Goyal and Mr. Rukban yagi, Adv.

versus

P C GUPTA

..... Respondent
Through Mr. R.S. Kela, Adv.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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11.02.2016

The tenant before this Court has assailed the order dated 01.08.2015 vide which his application seeking leave to defend had been dismissed. Submission being that a triable issue had arisen and the parking space which is the alleged bonafide need of the landlord is clearly not made out.

Arguments have been heard.

The eviction petition in terms of para 18 (a) has sought eviction of the suit shop measuring 10' X 12' feet for the purpose of parking space which the petitioner requires for himself; submission is that that he and his wife are retired Government servants and they have no parking space and this shop being at the ground floor level and the residence of the landlord also being in a busy commercial area, the vacation of this shop would be necessary in order that the petitioner can use it for the parking of his vehicle which is a Zen car. Vehement

submission of the learned counsel for the landlord is that the impugned order calls for no interference.

Record shows that the rent deed pursuant to which the petitioner had been inducted as a tenant has described the suit shop as measuring 10' X 12' feet. It has been brought to the notice of the Court that a Zen car has a length of 11' feet and the submission of the learned counsel for the petitioner on this score is that a 11' feet long car cannot fit into 10' feet long space as the area which has been rented out to the petitioner is 10' feet in length and 12' feet in width.

On this count, learned counsel for the landlord submits that there is a pillar which can be demolished and the vehicle can fit into this space.

This submission is refuted. Learned counsel for the petitioner/tenant submits that even presuming that this submission of the learned counsel for the landlord is taken to be correct, even then the length of the space would increase only by 1- ½ feet and being an open space, it would require to be built up by enclosing walls which would also decrease the length of the area and even in that eventuality this space would not fulfil the requirement of the landlord for which this eviction petition has been filed. Moreover the Zen vehicle is of the year 2003 and this petition filed in the year 2001 again does not make a bonafide need as it is definitely not an immediate need.

Noting the above factual matrix, this Court is of the view that the triable issues have arisen and the Trial Court not noting these facts in the correct perspective has committed an illegality.

Accordingly, the impugned order is set aside. Leave to defend is

granted to the defendant. Written statement be filed by the defendant within three weeks.

Learned counsel for the respondent at this stage apprehends that the trial will be unduly delayed by the petitioner and noting the submission of the learned counsel for the respondent as also the fact that the respondent is a senior citizen being 80 years old, the Trial Court shall endeavour to dispose of the petition expeditiously.

Parties are directed to appear before the Trial Court on 01.03.2016.

Petition disposed of in the above terms.

INDERMEET KAUR, J

FEBRUARY 11, 2016

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