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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RC.REV. 610/2015

NARESH CHAND JAIN

..... Petitioner

Through Mr. Gaurav Seth and Mr. Nitin Jain,
Advs.

versus

RAJESH JAIN

..... Respondent

Through Mr. P.N. Bhardwaj and Mr. Ashutosh
Bhardwaj, Advs.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **15.02.2016**

The eviction petition discloses the need of the landlord which is the need of the son of the landlord to start an independent business; paras 10, 11 & 16 of the eviction petition are relevant. It is stated that the Rahul Jain had got married in November, 2012. After marriage, he wanted to start his independent business. Presently he is engaged in wholesale trade of sarees. This business was being run by his family since the last several years; he could not start the independent business because of paucity of accommodation.

In the application seeking leave to defend, the first and foremost submission raised by the tenant is that the petitioner's son (for whom the need is shown as bonafide) was already doing two independent business under the name of Rahul Creations and M/s Raj Jewels. This had also been mentioned in this wedding card.

Relevant would it be to note that the son of the landlord had got married in November, 2012. The wedding card had been affixed along

with the application seeking leave to defend which has also specified that the business of Rahul Creations was being run from the second floor and the business of Raj Jewels was being carried out from the mezzanine floor.

Reply was filed to the said application. In the reply, it was disclosed that although the son of the landlord had started the business of Rahul Creations and Raj Jewels but because of paucity of space, it could not really take off; it was thereafter closed.

This was an active concealment on the part of the landlord and this submission of the learned counsel for the tenant is noted. The site plan which had been filed by the landlord had depicted the upper ground floor but there was no mention whatsoever that the son of the landlord had started business ever although in the reply filed to the application seeking leave to defend, the landlord had admitted that a business had been started by his son but thereafter closed. When this business was started and when it was closed was not detailed in the pleadings. Triable issues have arisen.

The tenant/respondent is accordingly granted leave to defend. Written statement be filed within four weeks with advance copy to the learned counsel for the landlord who may file rejoinder before the next date. Parties are directed to appear before the concerned ACR on 14.03.2016.

With these directions, petition disposed of.

INDERMEET KAUR, J

FEBRUARY 15, 2016

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