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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ RC.REV. 626/2015 & C.M. No.29073/2015  
MUZAMMIL HUSSAIN

..... Petitioner

Through Haji Mohd. Yameen, Adv.

versus

AMIRUDDIN & ORS

..... Respondents

Through Mr. Mahmood Hasan and Mr. Suhail  
Aslam Khan, Adv.

**CORAM:**  
**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

% **15.02.2016**

The eviction petition discloses the bonafide need of the landlord which is the need for himself, his three sons all of whom are married with minor children and the accommodation which is presently available is only a three room set which is not a sufficient accommodation.

In the application seeking leave to defend, the first and foremost plea raised by the tenant is contained in paras 8 & 9. It is stated that there is enough accommodation with the landlord and in fact in the entire premise which is admittedly 1000 square yards (in terms of his ownership papers dated 24.07.1996) wherein even as per the showing of the landlord, he had purchased 1,000 square yards from his sister through registered documents. The contention of the tenant is that petitioners No. 1 & 3 have constructed a four storey building having 12 flats on this plot. The ground floor is commercial.

Out of 12 flats, petitioners No. 1 & 3 have sold 6 flats to different persons and 2 flats had been let out to the tenants. 4 flats are in physical possession of petitioners No. 1 & 3 in which family of petitioners No. 1 & 3 are residing. Petitioner No. 2 has a small family comprising of himself, wife and two children aged 5 & 3- ½ years. He is also living in this building having five storeys and the accommodation available with petitioner No. 2 is one bed room, a drawing-cum-dining room, kitchen, latrine bathroom where he is comfortably residing. This accommodation is enough for his family. The need of petitioners No. 1 & 3 is also not established as 4 out of 12 flats (of which 6 have been sold) are still in possession of petitioners No. 1 & 3.

In the reply filed to these averments, there has been an evasive denial to the specific averments made in the application seeking leave to defend. Besides a general denial, there is no submission that no such flats have been made or constructed by petitioners No. 1 & 3 or that 6 flats have not been sold and 4 are still in their possession. The accommodation available with petitioner No. 2 is also an admitted fact.

In this background, in view of the specific averment in the application seeking leave to defend about the accommodation which is available with the 3 petitioners and there being an evasive denial without any detail of the construction activity carried out on this plot (bearing No. 144) and the additional submission of the tenant that the complete site plan of the entire plot No. 144 is not a part of the record, in the mind of this Court, triable issues have arisen which

entitle the tenant a leave to defend the eviction petition.

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 09.03.2016.

With these directions, petition disposed of.

**INDERMEET KAUR, J**

**FEBRUARY 15, 2016**

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