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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1202/2015, CM APPL. Nos. 29659/2015 & 29660/2015
LEKH RAJ REHALIA Petitioner

Through: Petitioner in person.

versus

SHYAM AVTAR GAUTAM Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **22.01.2016**

The matter has been received on transfer under orders of the Hon'ble the Chief Justice, passed on 21.01.2016.

The petitioner in person has been heard at length. Record perused.

The petition at hand, *inter-alia*, prays for orders dated 03.02.2012, 06.08.2013 and 20.11.2015 to be set aside. The order dated 03.02.2012 was passed by the Additional Rent Controller in eviction case no.05/2011 on the applications moved by the petitioner under Order 13 Rule-10 CPC and Orders 10, 11 & 15 CPC read with Section 151 CPC. The petitioner is a respondent in the said eviction case under Delhi Rent Control Act, 1958 taken out by the opposite party on the ground of non-payment of rent. By way of said application, petitioner had prayed before the Rent Controller for

certain orders of this court in writ petition and LPA to be called for and copies of certain other orders in a civil suit to be summoned along with Commissioner (MCD) to be examined primarily on the ground that the tenanted portion was a part of property which has been declared unauthorized construction by this court. The petitioner, the impugned order dated 03.02.2012 shows, had earlier also raked up same issue by way of his application under Order 7 Rule-11 CPC which was dismissed by the Rent Controller by order dated 07.03.2011. The Rent Controller found the applications frivolous and, thus, dismissed the same with cost of Rs.5,000/- to be paid by the petitioner herein to the opposite party.

On reappraisal of issue raised, this court finds that additional rent controller has taken appropriate view on the said application. In eviction proceedings on the ground of non-payment of rent under provision of Delhi Rent Control Act, 1958, the issues sought to be raised do not fall for consideration. As noted by the additional rent controller in the impugned order, the petitioner not having denied the relationship of landlord and tenant, is estopped from challenging the title or interest of the landlord.

The order dated 06.08.2013 which is impugned in this petition was passed by a learned single judge of this court in transfer petition (Civil) no.52/12 on application under Section 24 CPC read with Article 227 of the Constitution of India. The learned single judge found the petition for transfer moved by the petitioner herein frivolous and in the nature of abuse of the process of the court and, thus, dismissed it with cost of Rs.20,000/-. The said order cannot be challenged by way of another petition before this

court, as is sought to be done.

The third order dated 20.11.2015 has been passed in execution case arising out of the order dated 06.08.2013 thereby enforcing the order imposing costs. No fault can be found with the order passed by the ACJ in issuing requisite process for recovery of costs.

The petition is wholly frivolous and yet another attempt to abuse the process of the court. It is dismissed with cost of Rs.50,000/- (Rupees Fifty Thousand only).

Learned Additional Rent Controller is directed to take necessary steps to enforce the costs by appropriate proceedings. The costs, upon recovery shall be deposited with Delhi State Legal Services Authority.

A copy of this order be sent to concerned court.

R.K.GAUBA, J

JANUARY 22, 2016/ssc