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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 17/2016

SHIV PRASAD

..... Petitioner

Through: Mr.Gagan Gupta, Advocate.

versus

NIKESH KUMAR JAIN

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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08.01.2016

CM Nos.715-716 of 2016

1. Exemption allowed, subject to all just exceptions.
2. Applications stand disposed of.

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1. The petitioner is aggrieved by the order dated 19.09.2015 whereby the application filed by him under Section 151 CPC for placing on record additional documents in respect of the plea taken in para 2 of the application seeking leave to defend, has been dismissed by the learned Trial Court.
2. Learned counsel for the petitioner/tenant submits that in fact it was for the respondent/landlord to file these documents as the same pertain to the plea taken in respect of the eviction on the ground of sons of the respondent/landlord being jobless. The petitioner/tenant wants to controvert the same by placing on record the copy of income tax returns filed by sons

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of the respondent/landlord which he obtained later on from the website of Income Tax Department, thus could not annex with the application seeking leave to defend.

3. Learned counsel for the petitioner further submits that reply to the application seeking leave to defend has been filed by the respondent/landlord without placing on record the copy of the income tax returns of his sons but by taking a plea that the joblessness of his sons is not a condition precedent for filing an eviction petition under Section 14(1)(e) of DRC Act.

4. Learned counsel for the petitioner submits that since plea to the effect that sons of the respondent/landlord are income tax payee has already been taken and the copies of income tax returns of the sons of the respondent/landlord has to be with them, the petitioner/tenant shall raise these issues before the learned ARC so as to consider the same for disposal of the application seeking leave to defend.

5. Learned counsel for the petitioner/tenant seeks leave to withdraw the present petition with liberty to raise all the pleas taken in the application seeking leave to defend before the learned ARC at the stage of consideration of the application seeking leave to defend.

6. Accordingly, the petition is dismissed as withdrawn granting the liberty as prayed for.

A copy of this order be given dasti to learned counsel for the petitioner, as prayed.

CM No.714/2016

Dismissed as infructuous.

PRATIBHA RANI, J.

JANUARY 08, 2016/‘st’
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