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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 79/2016 & C.M. No.4336/2016
VINODPetitioner
Through Mr.D.Kyati, Advocate.

versus

RANJEET SINGH

..... Respondent
Through Mr.Sanjay Sharawat, Mr. Ashok
Kumar, Mr.Ratish Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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19.05.2016

Impugned order is dated 21.3.2015. Vide the impugned order eviction petition had been decreed in favour of the landlord Ranjeet Singh. This was in a pending proceeding under Section 14(1)(e) of the DRCA. The Court had noted that valid service had been effected upon the tenant and since an application seeking leave to defend had not been filed, the Court had decreed the eviction petition in favour of the landlord.

The petitioner before this Court is the tenant (respondent in the Trial Court). His submission is that a fraud had been played upon him by the landlord and in fact no service has been effected upon him.

The service reports of the process server dated 12.12.2014 and 04.3.2015 have been perused. The tenant in this case is one Vinod. As per the report (dated 12.12.2014,) the process server had met one girl Kiran who claimed herself to be the daughter of Vinod.. Submission

of the tenant is that she was not an agent of the tenant and she was not empowered to receive the summons on his behalf. As per the report dated 04.3.2015, one person by the name of Vinod was allegedly found at the place of service. He had purportedly refused to receive the summons. The petitioner is also present in person. He states that this report has been fabricated. Submission being that a person impersonated by the landlord had been placed at the site in order to get the service effected for the benefit of the landlord.

Per contra, learned counsel for the landlord has disputed this position. He submits that the service has been effected through not only the ordinary process i.e. through the branch of the process serving agency but also through registered A.D. post.

The report of the process server has been noted supra. The registered A.D. Covers had been sent to Vinod on which the postal employee had noted that Vinod was not available at the site; on the second and third time there appears to be a refusal but the report is conspicuously silent as to who had refused the summons. The report of the process serving agency had also noted that at the first visit one Kiran and at the second visit one Vinod met the process server but the submission of the tenant that Kiran was he empowered to receive summons on his behalf is an argument worthy of merit. Service is clearly doubtful. Impugned order is set aside. Permission to file application seeking leave to defend is accordingly granted to the petitioner (tenant); who shall file the said application within 15 days from today with advance copy to the landlord who may file reply before next date.

At this stage, learned counsel for the petitioner submits that the petitioner has not come to the court with clean hands and such a litigant deserves no sympathy. Learned counsel for the petitioner has placed reliance upon a judgment of the Apex Court reported as (2010) 14 SCC 38 Ramjas Foundation and Anr. Vs. Union of India.

Per contra, learned counsel for the petitioner submits that it is the landlord who had played a fraud upon the tenant by getting a false service report prepared. This Court need not to delve any further into the submissions and counter submissions as the conduct of the landlord in obtaining an almost verbatim service report in all the ten connected petitions does create a suspicion in the mind of the Court. The submission of the landlord that the tenant has not come to Court with honesty as in his application seeking a stay of the decree he had not disclosed to the Court that possession of the property had already handed over to the landlord on 03.3.2016 is belied by the contents of the said application. There is no such positive assertion in the application which could persuade this Court at this stage to lean in favour of the landlord. These submissions thus need not be delved into any further.

Parties are directed to appear before ARC on 08.7.2016.

Petition disposed of in the above terms.

INDERMEET KAUR, J

MAY 19, 2016/ndn