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

+ RC.REV. 80/2017

ASHOK ANAND

..... Petitioner

Through Mr.Prag Chawla, Advocate

versus

PREM LATA

..... Respondent

Through Mr.P.D.Gupta, Sr. Advocate with
Mr.Abhishek Gupta, Advocate with respondent in
person

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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07.03.2017

Caveat No.158/2017

Since the learned counsel for the respondent has entered appearance,
the caveat stands discharged.

RC.REV. 80/2017 & CM Nos.6584-6585/2017

By the present revision petition filed under section 25B (8) of Delhi Rent Control Act, 1958 the petitioner seeks to impugn the Eviction order dated 30.11.2016 regarding the tenanted premises Municipal No.157, Gali Basheshwar Nath, Old Subzi Mandi, Delhi-110007. In terms of section 25B of the DRC Act, the petitioner/tenant after being served with the summons failed to file an application seeking leave to defend within the stipulated period of 15 days. Accordingly, the trial court has passed the impugned eviction order.

Learned counsel appearing for the petitioner has made two

submissions to impugn the order. Firstly, he submits that subsequent events have taken place after passing of the eviction order which have been suppressed from the court. He points out that the respondent has got possession of the shop on 26.11.2016 pursuant to an eviction order of the ARC. Hence, he submits that is now a sufficient alternative accommodation available to the petitioner on account of an event accruing after passing of the eviction order. He secondly submits that the ARC may not have the powers to condone delay in filing the application for leave to defend but this court would have the powers to condone the delay and permit the petitioner to file an application seeking leave to defend.

As far as the question of possession of additional shop is concerned, learned senior counsel for the petitioner has pointed out that in the eviction petition it has clearly been stated that the eviction petition has been filed in regard to another shop under section 14(1)(a) of the DRC Act where eviction order has already been passed. The petitioner further states that the respondent had not got possession of the said shop then. He points out that it is pursuant to the said eviction order that the possession of the shop has now been received on 26.11.2016. He further points out that possession has been received prior to the date of the eviction order.

In view of the above, it is clear that there are no subsequent developments which have a material bearing on the issue in hand.

As far as the legal position is concerned the Supreme Court in ***Prithipal Singh v. Satpal Singh, 1 (2010) CLT 114 (SC)*** held as follows:-

“14. From a careful perusal of Sub-section (4) of Section 25B of the Rent Act, it would be clearly evident that the tenant shall not be permitted to contest the prayer for eviction unless he files an affidavit before the Controller

stating the ground on which he seeks to contest the application for eviction and obtains leave from the Controller. This Section also clearly indicates that in default of his appearance in compliance with the summons or his obtaining such leave, the statement made by the landlord in the eviction proceeding shall be deemed to be admitted by the tenant and the landlord shall be entitled to an order for eviction on the ground mentioned in the eviction petition.

15. At this stage, we may also note that in Sub-section (4) of Section 25B of the Rent Act read with Third Schedule, it has been made clear by the Legislature that if the summons of the proceeding is received by the tenant, he has to appear and ask for leave to contest the eviction proceeding within 15 days from the date of service of notice upon the tenant and if he fails to do so, automatically, an order of eviction in favour of the landlord on the ground of bona fide requirement shall be made.”

Hence, as per the statutory provision if a tenant fails to enter appearance and seeks leave to contest the eviction proceedings within 15 days automatically an order of eviction in favour of the landlord is required to be passed. There are no grounds stated as to why the statutory provision should be given a go by in favour of the petitioner by the court exercising its powers under Article 227. There is no merit in the present petition. Same is dismissed. All pending applications, if any, also stand disposed of accordingly

JAYANT NATH, J

MARCH 07, 2017

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