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

+ CM(M) 359/2017

MOHINDER PARKASH KATARIA

..... Petitioner

Through: Mr. Deepak Sharma & Mr. Manish,
Advs.

Versus

SHYAM NARAIN GOEL

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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15.09.2017

**CM No.33947/2017 (under Order IX Rule 9 CPC) & CM No.33948/2017
(for condonation of four days delay in applying therefor)**

1. The aforesaid petition was dismissed in default of appearance of the petitioner on 21st July, 2017.
2. Notice even of the petition had not been issued to the respondent till then.
3. For the reasons stated, the delay of four days in applying for restoration of the petition is condoned and the petition restored to its original position.
4. The applications are disposed of.

**CM No.31772/2017 (of the legal heirs of the petitioner for substitution)
& CM No.31773/2017 (for condonation of 71 days delay in applying
therefor)**

5. The counsel for the legal heirs of the deceased petitioner on enquiry states that this petition arises from a petition for eviction filed by the respondent under Section 14(1)(e) of the Delhi Rent Control Act, 1958 and the respondent has before the Additional Rent Controller (ARC) also applied

for substitution of the applicants in place of the deceased petitioner herein.

6. For the reasons stated, the delay in applying for substitution is condoned and the applicants are substituted in place of deceased petitioner.

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7. This petition under Article 227 of the Constitution of India impugns the order [dated 20th December, 2016 in E. No.94/2016 of the Court of CCJ-cum-ARC-1 (Central), Tis Hazari Courts, Delhi] of dismissal of an application filed by the petitioner / tenant for supply of legible copies of the documents filed by the respondent along with petition for eviction.

8. The learned Additional Rent Controller in the impugned order has reasoned i) that leave to defend application as well as rejoinder to the reply thereto had already been filed by the petitioner; ii) that the petitioner was well within his right to inspect the file or to move the application at appropriate stage; iii) that no such steps had been taken by the petitioner; and, iv) that in these circumstances, no ground for allowing the application was made out.

9. Interference in exercise of jurisdiction under Article 227 of the Constitution of India is not called for with respect to such orders. This petition is only meant to delay the disposal of the application filed by the petitioner for leave to defend the petition for eviction under Section 14(1)(e) of the Act filed by the respondent on the ground of self-requirement of the premises in the tenancy of the petitioner.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 15, 2017/‘gsr’..

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