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

+ CM(M) 805/2012

SAROJ JAIN

..... Petitioner

Through: Mr. Aishwary Kumar Tiwari, Adv.

Versus

DHARAM PRATAP KOHLI

..... Respondent

Through: Mr. Deepak Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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04.07.2017

1. This petition under Article 227 of the Constitution of India impugns the order dated 5th March, 2012 of the Additional Rent Controller (ARC), in a petition for eviction under Section 14(1)(e) of the Delhi Rent Control Act, 1958 filed by the petitioner against the respondent, of dismissal of application filed by the petitioner for fixation of the market rent of the tenancy premises.
2. The petition was entertained and notice thereof issued, though no stay of proceedings before the ARC sought, granted.
3. Neither counsel is aware of the status of eviction petition before the ARC.
4. Mr. Aishwary Kumar Tiwari, Advocate appearing for the petitioner states that he is working with Mr. Nikhilesh Krishnan, Advocate who is unwell today and seeks an adjournment.

5. However, finding the petition to be five years old, I have requested Mr. Aishwary Kumar Tiwari, Advocate, whether he knows of the facts of the case and to disclose the same.

5. Mr. Aishwary Kumar Tiwari, Advocate has stated that the petitioner landlord during the pendency of the eviction petition wanted enhancement of rent of the tenancy premises from that existing of Rs.70.40 paise per month to Rs.60,000/- per month on the basis of the dicta of the Supreme Court in *Mohammad Ahmad Vs. Atma Ram Chauhan* (2011) 7 SCC 755.

6. The ARC, vide the impugned order has dismissed the application stating that this Court in *Santosh Vaid Vs. Uttam Chand* 2012 (128) DRJ 392 has held the dicta in *Mohammad Ahmad* supra to be not applicable to the premises covered by the Delhi Rent Control Act, 1958.

7. I have confirmed from the counsel for the respondent that what is disclosed by Mr. Aishwary Kumar Tiwari, Advocate is factually correct.

8. The counsel for the respondent adds that the contention of the petitioner in this petition is that *Santosh Vaid* supra does not take the correct view.

9. I have perused the entire petition under Article 227 of the Constitution of India including the grounds taken therein and find the petitioner to have *inter alia* contended that the view taken in *Santosh Vaid* supra to the effect that *Mohammad Ahmad* supra is not applicable to Delhi is obiter.

10. Finding pursuing of this petition for the last five years and the request for adjournment today to perpetuate the pendency of this petition to be totally misconceived, I refuse to grant adjournment to burden the Board of this Court with such misconceived petitions.

11. The question is beyond any pale of controversy vide the judgment of the Division Bench of this Court in *Santosh Vaid Vs. Uttam Chand* (2012) 188 DLT 293 where it has been unequivocally held that a tenant covered by the Delhi Rent Control (DRC) Act, 1958 cannot be compelled to increase the rent, otherwise in accordance with Section 6(A) of the DRC Act which permits only 10% increase for the last paid rent every three years. If it were to be held that the ARC is entitled to so enhance the rent to the market rent, the DRC Act would lose its meaning.

12. For this short reason and for the elaborate discussion in *Santosh Vaid* supra, need to elaborate any further is not felt.

13. The petition is misconceived and is dismissed with costs of Rs.25,000/- payable by the petitioner to the respondent as a pre-condition for pursuing the petition for eviction.

RAJIV SAHAI ENDLAW, J.

JULY 04, 2017

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