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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 217/2016 & CM No.14240/2016 (for stay).
HEMANT KUMAR BHALLA Petitioner
Through: Mr. Joby P. Vargahese, Adv.
versus
BHUPINDER SINGH Respondent
Through: Mr. Mahinder Jeet Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **03.11.2017**

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 9th February, 2016 in E-582/14/11 of the Court of Additional Rent Controller-2 (Central), Tis Hazari Courts, Delhi] granting leave to the respondent to defend the petition for eviction under Section 14(1)(e) of the Act filed by the petitioner.
2. The petition was entertained and notice thereof ordered to be issued and the Trial Court record requisitioned and on the application of the counsel for the petitioner / landlord, operation of the order impugned was stayed. The Trial Court record has been received and owing thereto and the interim stay sought by the petitioner / landlord himself, no proceedings have taken place in the petition for eviction from which this petition arises, for the last 1½ years.
3. The conduct of the landlord, even if aggrieved from the order of grant of leave to defend, of seeking stay of proceedings in his own petition for eviction, is found to be rather strange and out of the ordinary. In petitions filed by the landlords against such orders coming before this Court, the landlords are never found to be seeking stay of proceedings in the eviction petition before the Additional Rent Controller inasmuch as till the Rent

Control Revision petition is heard and decided, there can be no certainty that the same would be allowed. If the Rent Control Revision petition were to be finally dismissed, the time for which the petition remains pending before this Court, would also be wasted.

4. Be that as it may, the counsels have been heard.

5. The petitioner / landlord and his family members are admittedly settled in London since, the counsel for the petitioner / landlord states 1970s or 1980s. The petition for eviction from which this petition arises was filed pleading requirement of the premises let out to the respondent / tenant for the purposes of residence of the petitioner / landlord and his family members during their visit to India.

6. The counsel for the petitioner / landlord on enquiry states that the petitioner / landlord is working in United Kingdom and the petitioner / landlord and his family are British citizens and the children of the petitioner / landlord are informed to be studying and now just started working.

7. No fault in the aforesaid circumstances can be found with the grant by the learned Additional Rent Controller of leave to defend to the respondent / tenant.

8. The counsel for the petitioner / landlord has argued that the learned Additional Rent Controller has not given any reasons.

9. Undoubtedly so, but the Additional Rent Controller has in the impugned order recorded the factum of the petitioner / landlord being permanently settled and gainfully employed abroad and in this view of the matter granted leave to defend.

10. The order impugned cannot be said to be not in accordance with law within the meaning of Section 25B(8) of the Act. The petitioner / landlord,

unless proves by entering the witness box and which the petitioner / landlord is found to be avoiding, of the periodicity of his visits to India, cannot be entitled to order of eviction.

11. Though on asking it was informed that the passports of the petitioner / landlord and his family members show visits to India in five years prior to the institution of the petition for eviction but the same have not been filed. Copies handed over in Court also are of first page of the passports only and which do not disclose the periodicity of the visits. The counsel for the petitioner / landlord however states that the last visit of the petitioner / landlord was in the year 2013 and the petitioner / landlord has not visited since then.

Dismissed.

The Trial Court record be returned forthwith.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 03, 2017

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