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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 292/2016 & CM No.18371/2017 (for directions) & CM
No.19779/2016 (for stay)
RAKESH KUMAR Petitioner

Through: Ms. Nisha Narayanan & Mr. Shariq
Iqbal, Advs.

Versus

DHARMENDER KUMAR SHARMA Respondent
Through: Mr. Surender Kumar Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.10.2017

1. This Rent Control Revision Petition impugns the order [dated 10th February, 2016 of the Court of Rent Control Tribunal, North-East District, Karkardooma Courts, Delhi] of dismissal of the appeal under Section 38 of the Delhi Rent Control Act, 1958 preferred by the petitioner against the order [dated 17th April, 2014 in EP No.160/2012 of the Court of SCJ-cum-RC, North East District, Karkardooma Courts, Delhi] allowing the petition for eviction under Section 14(1)(a) of the Act filed by the respondent against the petitioner and posting the matter for hearing arguments under Section 14(2) of the Act.

2. The petition was entertained and notice thereof ordered to be issued. Vide order dated 22nd December, 2016, the execution of the order of eviction was stayed. Vide subsequent order dated 15th May, 2017, the petitioner was directed to clear all the arrears within three months at the rate of Rs.2,000/- per month with 15% interest per annum and the stay of order of the eviction was made conditional thereon.

3. The petitioner did not make any deposit and resultantly vide order dated 22nd August, 2017, the stay of the order of eviction was vacated and it was ordered that the eviction if any of the petitioner from the premises shall be subject to final outcome of this petition.
4. The petition is listed for final hearing today.
5. The counsel for the petitioner states that the petitioner had preferred SLP(C) No.24800/2017 against the order dated 22nd August, 2017 supra of vacation of stay and the Supreme Court has vide order dated 5th October, 2017 extended time for deposit by ten days from then. It is stated that the said period of ten days has not expired as yet and the petitioner within the said ten days will deposit the amount.
6. Be that as it may, from the aforesaid it appears that the petitioner must have been held not entitled to the benefit under Section 14(2) of the Act. I may mention that under the Delhi Rent Act, in a petition for eviction on the ground of non-payment of rent under Section 14(1)(a), if the tenant pays rent, the eviction is not ordered and a benefit under Section 14(2) is granted.
7. The counsel for the respondent / landlord confirms that the petitioner / tenant was not in compliance of the order made under Section 15(1) of the Act and has thus been denied the benefit under Section 14(2) and the Additional Rent Controller (ARC) has vide order dated 16th August, 2016 against which no appeal has been preferred, passed an order of eviction of the petitioner.
8. Be that as it may, the counsel for the petitioner has been heard and the trial court record perused.

9. I have at the outset enquired from the counsel for the petitioner as to how a Rent Control Revision Petition lies. A Rent Control Revision Petition lies under Section 25B(8) of the Act, only against the orders under Section 25B and which is applicable only to petitions for eviction on the ground of personal requirement by the landlord of the premises and is not available on the other grounds including of non-payment of rent on which ground the petition for eviction from which this petition arises was filed. Though the Delhi Rent Control Act, 1958 in Section 39 thereof provided for a second appeal against the order of the Rent Control Tribunal (RCT) albeit only on a question of law, but the same was deleted. It is thus clear that the legislative intent was / is to make the orders of the RCT final. At best, this Court, if approached under Article 227 of the Constitution of India, can look into the matter but only within the confines thereof and without from the glasses of an appellate Court and which provision of law has been deleted by legislative amendment.

10. Needless to state, the counsel for the petitioner is clueless about the same.

11. However, since as per Roster, I am also exercising jurisdiction under Article 227 of the Constitution of India, rather than dismissing this petition on the aforesaid technicalities, I proceed to determine whether any ground for interference under Article 227 is made out.

12. The ARC vide order dated 17th April, 2014 allowed the petition for eviction under Section 14(1)(a) filed by the respondent, finding / observing / reasoning i) that the petitioner in his written statement in another proceeding

had admitted the relationship of landlord and tenant with the respondent; ii) that in the light of the said admission in another proceeding, the stand taken in the written statement to the petition for eviction that there was no relationship of landlord and tenant could not be accepted; iii) that the only explanation of the petitioner / tenant was that the written statement in the other proceedings admitting being a tenant under the respondent at a rent of Rs.2,000/- per month was got fraudulently signed from the petitioner by his then advocate who was in collusion with the respondent and a complaint had been filed by the petitioner against the said advocate; iv) that however the said complaint had not been filed on record inspite of repeated opportunities and being asked to do so; v) that even otherwise, the plea of the earlier advocate and having got the written statement signed fraudulently was vague; vi) thus there was a relationship of landlord and tenant between the respondent and the petitioner; vii) that it was not the case of the petitioner that the rent claimed to be in arrears had been paid; vii) that the petitioner had also admitted the receipt of the notice of demand of rent preceding the petition for eviction; and, viii) thus a case under Section 14(1)(a) of the Act on admissions was made out.

13. The RCT dismissed the appeal preferred by the petitioner, observing i) that the petitioner in the written statement in the other proceeding had not only admitted being a tenant under the respondent but had also admitted having sold the property to the respondent and thereafter residing therein as a tenant; ii) that the other proceeding in which written statement was filed had also been disposed of in terms thereof; iii) that mere fact that the petitioner had never paid the rent to the respondent was irrelevant; iv) that

the ARC had thus rightly come to the conclusion that there was an admission on the part of the petitioner of relationship of landlord and tenant; and, v) that thus no merit was found in the appeal.

14. The argument of the counsel for the petitioner before this Court also is that since no rent had been paid, there could not have been a relationship of landlord and tenant.

15. The concurrent finding of facts of the Court below are on the basis of admission of the petitioner in another proceeding and no error is found therein.

16. On enquiry, the counsel for the petitioner states that the petitioner has filed a civil suit for declaration of the documents of sale purported to be executed by the petitioner in favour of the respondent as null and void and for permanent injunction and which is still pending consideration.

17. A finding of a Tribunal under the Rent Control Act is not conclusive qua title and it is not as if the eviction of the petitioner on the ground of non-payment of rent would be determinative of the title of the respondent to the property which the petitioner in the civil suit is disputing. If the petitioner, in civil suit is able to get any relief, the same will prevail over the finding of the relationship of landlord and tenant under the Rent Act.

18. Thus there is no merit in this petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 09, 2017/‘gsr’..