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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 178/2016 & CM No.40810/2016 (for condonation of 61 days
delay in re-filing)
RAVINDER GUPTA Petitioner
Through: None.

Versus

RAM DULARI CHAWLA Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
25.07.2017

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1. None appears.
 2. This Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) impugns the order (dated 29th April, 2016 in Suit No.64/2015 of the Court of Civil Judge-11 (Central), Tis Hazari Courts, Delhi) of dismissal of the application filed by the petitioner/defendant under Order VII Rule 11 of CPC.
 3. The petition was entertained and notice ordered to be issued.
 4. The petitioner/defendant did not take any steps for service of the respondent/plaintiff.
 5. On a reading of the impugned order and the plaint, it *prima facie* appears that there is no error in the impugned order, inasmuch as the suit is for recovery of possession of almirah and for recovery of future *mesne* profits; it is the plea in the plaint that the almirah is not 'premises' within the meaning of the Delhi Rent Control Act, 1958; the petitioner/defendant
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sought rejection of the plaint on the ground of the claim therein being barred by Section 50 of the Act. Till it is determined by evidence, whether the tenancy of petitioner/defendant is of a 'premises' within the meaning of the Rent Act, the suit cannot be dismissed by rejection of plaint.

7. Be that as it may, since none has appeared for the petitioner/defendant, dismissed in default.

RAJIV SAHAI ENDLAW, J.

JULY 25, 2017

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