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

Decided on: 10th October, 2017

+ RC REV. 163/2015 & CM No. 6421/2015 (stay)

RAJEEV GUPTA

..... Appellant

Through: Mr. Pawan Kawrani, Mr. Anil
Garg & Mr. Mukesh Sachdeva,
Advs.

versus

KAMAL KISHORE AGGARWAL

..... Respondent

Through: Mr. B.B. Gupta, Sr. Adv. with
Mr. Jai Sahai Endlaw & Mr.
Apoorv Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The petitioner is aggrieved by the orders dated 18.02.2013 and 19.03.2015 of the Additional Rent Controller (East) at Karkardooma Courts Complex in the proceedings arising out of eviction petition (E-28/2013) instituted by the respondent against him. By the first order, the Additional Rent Controller held that the petitioner had been served, this having been deemed on the basis of report dated 01.02.2013 of the process server indicating "refusal" of the process on tender by the employees of the petitioner. In the wake of such deemed service, the tribunal proceeded to grant eviction order under Section 14(1) (e) of Delhi Rent Control Act, 1958, following the special

procedure envisaged in Section 25 B of Delhi Rent Control Act, 1958, there being no application on behalf of the petitioner to seek leave to defend. By order dated 19.03.2015 passed on the file of application under Order 9 Rule 13 of Code of Civil Procedure, 1908 (CPC) (MNo. 09/13), the Additional Rent Controller found no substance in the contentions of the petitioner, particularly on the question of there having been no service effected in the eviction case.

2. After some hearing, the learned counsel for the respondent fairly concedes that the impugned orders may be set aside and the proceedings arising out of the eviction petition may be revived so as to relegate the parties to the stage of consideration of the application of the petitioner seeking leave to defend which is stated to have already been submitted. The learned counsel for the respondent submits that since the application under Order 9 Rule 13 CPC was not allowed there was no occasion for him to file response to the application of the petitioner seeking leave to defend. He requests that such opportunity may now be allowed.

3. In the foregoing facts and circumstances, the petition is allowed. The impugned orders are set aside. The proceedings arising out of the eviction petition are revived on the file of the Additional Rent Controller at Karkardooma Court Complex. The proceedings shall be taken up further from the stage of consideration of the application of the petitioner herein for grant of leave to defend. The learned Additional Rent Controller shall first give liberty to the respondent herein to file his response to such application and, thereafter, proceed further in accordance with law.

4. The parties are directed to appear before the tribunal on 6th November, 2017. It is hoped that the Additional Rent Controller shall proceed with the matter as expeditiously as possible.
5. The petition stands disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 10, 2017

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