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

+ RC.REV. No.363/2015 & CM No.12844/2015 (for stay).

BAKTAWAR

..... Petitioner

Through: Mr. Vikas Bhatia, Adv.

Versus

GAINDO

..... Respondent

Through: Mr. K.K. Aggarwal and Ms. Gayatri
Aggarwal, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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07.09.2017

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order (dated 3rd January, 2015 in E.No.6/14 of the Court of Additional Rent Controller (North) District, Rohini Courts, Delhi) of dismissal of the application filed by the petitioner / tenant for leave to defend the petition for eviction under Section 14(1)(e) of the Act filed by the respondent / landlady and the consequent order of eviction of the petitioner / tenant from one room in House no.20, Khasra No.2/10, Village Dhaka, Mukharjee Nagar, Delhi.

2. The petition was entertained and notice thereof issued, though no stay of the order of eviction granted.

3. The respondent / landlady executed the order of eviction and recovered possession of the portion in occupation and tenancy of the petitioner. Vide order dated 17th September, 2015 in this petition, the respondent / landlady was directed to deliver back the possession and the Rent Control Revision Petition posted for hearing. The respondent / landlady preferred SLP (C) No.27976/2015 to the Supreme Court against the said

order directing restoration of possession and vide order dated 1st July, 2016 therein, it has been directed that the respondent / landlady may retain possession subject to the final outcome of this petition.

4. The counsels have been heard.

5. The respondent / landlady sought eviction of the petitioner / tenant pleading, (i) that she was the owner of house no.20, Khasra No.2/10, Village Dhaka, Mukharjee Nagar, Delhi constructed over 100 sq. yds. of land; (ii) that the family of the respondent / landlady comprised of nine children who had no accommodation of their own; (iii) that the respondent / landlady was residing in the same property and wanted the room let-out to the petitioner / tenant for the residential requirement of herself and her family members; and, (iv) that though the said room was let-out to the petitioner / tenant for residential purposes but the petitioner / tenant had started using the same for industrial purposes.

6. The petitioner / tenant sought leave to defend, not disputing the ownership and not disputing the relationship of landlord and tenant with the respondent / landlady and pleading (i) that the respondent / landlady had other properties, particulars of which were given, available to her and therefore had sufficient accommodation available to her; and, (ii) that the room aforesaid was let-out to him, since inception of tenancy, for industrial purpose only and he was carrying on business of making soap therefrom.

7. The respondent / landlady, in reply to the application for leave to defend, denied that any of the other properties claimed in the application for leave to defend as being available to her was in her ownership or possession or that she had any right thereto.

8. The counsel for the petitioner / tenant on enquiry, whether the petitioner / tenant had placed any material before the Additional Rent Controller to show that any other properties were available to the respondent / landlady, has replied in the negative.

9. I have perused the site plan of the property filed by the respondent / landlady; the petitioner / tenant did not file any site plan. From the said site plan it cannot be said that the respondent / landlady has sufficient accommodation available to her in the premises. It is not disputed that the respondent / landlady along with her family as described in petition for eviction reside in the premises. From the said site plan, it cannot be said that accommodation available with the respondent / landlady is sufficient for her requirement.

10. There is nothing before this Court from which it can be gathered that the order of eviction passed by the Additional Rent Controller is not in accordance with law within the meaning of Section 25B(8) of the Act.

11. There is no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 07, 2017

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(Corrected & released on 3rd October, 2017)