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

+ RC.REV. 429/2016

SURESH CHAND

..... Petitioner

Through: Ms. Roshni, Adv.

Versus

RAJEEV AGGARWAL

..... Respondent

Through: Mr. Deepak Sahni, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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18.07.2017

1. This petition under Section 25 B (8) of the Delhi Rent Control Act, 1958 was preferred impugning the order (dated 25th April, 2016 of the Court of Additional Rent Controller-02, Central District, Tis Hazari Courts, Delhi in E.No.641/14/05 in Unique I.D. No.02401C1484612008) of, after trial, eviction of the petitioner from premises in his occupation in Property No.4321, Gali Bhairon Wali, Jogiwara, Illaqa no.6, Nai Sarak, Delhi-6.
2. On 28th March, 2017 the counsel for the petitioner did not press the petition and confined the relief claimed therein only to grant of time till 31st March, 2018 to vacate the premises. Accordingly the petition was dismissed and with the direction to the petitioner to file affidavits by way of undertaking to vacate the premises on or before 31st March, 2018. The order of eviction was made inexecutable till then.

3. The respondent/landlord filed CM.No.17866/2017 averring that the petitioner/tenant has not filed affidavit of undertaking and was thus not entitled to time till 31st March, 2018 to vacate the premises and seeking clarification that the respondent/landlord is entitled to execute the order of eviction.
4. Notice of CM.No. 17866/2017 was ordered to be issued.
5. In response to the aforesaid notice, the counsel for the petitioner appears and states that the petitioner/tenant has died and he is now appearing for Shakuntla Devi and Rajesh Kumar, being two of the heirs of deceased petitioner. The counsel further states that the other LRs of the deceased petitioner/tenant have refused to furnish the affidavits of undertaking stating that they have no concern with the tenancy premises.
6. The counsel for the said Shakuntla Devi and Rajesh Kumar states that they have filed CM.No.23488/2017 alongwith affidavits of their undertaking in terms of order dated 28th March, 2017 supra.
7. The counsel for the said Shakuntla Devi and Rajesh Kumar also states that the said Shakuntla Devi and Rajesh Kumar alone are in control and possession of the entire premises with respect to which the order of eviction has been passed and would be in a position to deliver vacant, peaceful, physical possession of the premises to the respondent/landlord in terms of the undertaking.
8. The counsel for Shakuntla Devi and Rajesh Kumar has been directed to hand over the copies of the affidavits by way of undertaking to the counsel for the respondent/landlord who, after going through the same states that the undertaking and the contents thereof are in terms of the order dated

28th March, 2017.

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9. The counsel for the respondent/landlord however points out that the arrears of rent as undertaken to be paid and future amount has not been paid.

10. The undertaking of the aforesaid Shakuntla Devi and Rajesh Kumar is accepted and they are ordered to be bound thereby and cautioned of consequences of breach of undertaking given to the Court.

11. The said Shakuntla Devi and Rajesh Kumar are directed to pay to the respondent/landlord an amount calculated @ Rs.12/- per month with effect from 1st September, 2012 till 31st July, 2017 on or before 31st July, 2017 and to thereafter till the date of vacation of the premises in terms of the undertaking continue to pay a sum of Rs.12/- per month in advance for each month to the respondent/landlord.

12. If the amounts are not paid, the respondent/landlord besides taking action against Shakuntla Devi and Rajesh Kumar for breach of undertaking given to the Court shall also be entitled to execute the order of eviction forthwith.

13. The applications are disposed of.

RAJIV SAHAI ENDLAW, J.

JULY 18, 2017
Bs/M..

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