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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 23rd November, 2017

+ CM(M) 271/2015 & CM No. 5587/2015

JASWANT SINGH & ANR Petitioners
Through: Mr. R.P. Sharma, Advocate.

versus

I.N.CHAUDHARY Respondent
Through: Mr. Mukesh Kr. Verma,
Advocate.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The petitioners have initiated eviction proceedings against the respondent on the ground of second default in payment of rent in terms of Section 14(1)(a) read with Section 14(2) of Delhi Rent Control Act, 1958 (DRC Act). The proceedings in the said case, presently registered as E-29/2011, are pending on the file of the Rent Controller-West, Delhi. It appears that in earlier proceedings, on the ground under Section 14(1)(a) of DRC Act, upon finding being returned that the respondent had been in default, he having complied with order under Section 15(1) of DRC Act, the case stood closed with benefit of Section 14(2) of DRC Act having been accorded.

2. In the proceedings arising out of the case based on second default, one of the contentions raised by the respondent appears to be that his rights in terms of an Agreement to Sell need to be protected in which regard his civil suit is separately pending before the appropriate forum. The Rent Controller had passed an order under section 15(1) DRC Act which was challenged by the respondent by an appeal (ARCT- 39/2013) decided by the Additional Rent Controller Tribunal-West by judgment dated 19.10.2013. While upholding the order of the Rent Controller under Section 15(1) of DRC Act, the Additional Rent Control Tribunal has added an observation that such order in the rent control proceedings would be “*subject to the outcome of the civil litigation in the suit filed for specific performance by the appellant against Smt. Surender Kaur, the Predecessor-in-interest of the respondents herein.*” By the petition at hand, exception is taken to the said qualifying clause.

3. Having heard the counsel on both sides and having perused the record, this Court is of the view that the above quoted observations were not only uncalled for but also unnecessary. The main case arising out of the petition based on the second default is still pending adjudication. Whether or not a decree is passed in those proceedings so as to direct eviction of the respondent, is a matter yet to reach fruition. It is at the stage of final adjudication that the question whether such a restriction can be put on the decree would need to be considered.

4. With these observations, the afore-quoted directions in the impugned order of Rent Controller Tribunal are set aside.

5. The petition and the pending application stand disposed of accordingly.

R.K.GAUBA, J

NOVEMBER 23, 2017

srb

