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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. No.376/2017, CM No.29614/2017 (for stay) and CM
No.29616/2017 (for condonation of 80 days delay in re-filing).
SUCHA SINGH Petitioner

Through: Mr. H.L. Raina, Adv.

versus

DEEPAK SENER Respondent

Through: None.

AND

RC.REV. No.379/2017, CM No.29756/2017 (for stay) and CM
No.29758/2017 (for condonation of 80 days delay in re-filing).
SUCHA SINGH Petitioner

Through: Mr. H.L. Raina, Adv.

versus

MOHAN LAL (DECEASED) THR LRS Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **21.08.2017**

**CM No.29615/2017 (for exemption) in RC.REV. No.376/2017 and CM
No.29757/2017 (for exemption) in RC.REV. No.379/2017.**

1. Allowed, subject to just exceptions.

2. The applications stand disposed of.

**RC.REV. No.376/2017, CM No.29614/2017 (for stay) and CM
No.29616/2017 (for condonation of 80 days delay in re-filing) and
RC.REV. No.379/2017, CM No.29756/2017 (for stay) and CM
No.29758/2017 (for condonation of 80 days delay in re-filing).**

3. These petitions under Section 25B(8) of the Delhi Rent Control Act, 1958 impugn the common order (dated 18th April, 2017 in E.No.26157/16 and 26158/16 of the Court of Rent Controller (West), Tis Hazari Courts, Delhi) of grant of leave to the respondent/s/tenant to defend the petitions

filed by the petitioner / landlord for eviction under Section 14(1)(e) of the Act.

4. The counsel for the petitioner / landlord has been heard.

5. The petitioner / landlord sought eviction of the respondent/s/tenant pleading that he was settled in United Kingdom (UK) for 30 years, was 71 years of age, was drawing pension from the British Government and helping one of his sons in the business of property brokerage in UK and wanted to shift to India and needed the shops in the tenancy of the respondent/s in each of the petitions to merge the same with the residential portion behind the said shops, for his residence.

6. It is the case of the petitioner / landlord himself that he has been settled in UK for over 30 years and all his sons and daughters are also in UK. From the factum of the petitioner / landlord admittedly getting pension from the British Government, it also follows that the petitioner / landlord is a British citizen. The petitioner / landlord, though has the residential portion behind the shops in the tenancy of the respondent/s in his possession, has till now not shifted thereto and has only expressed a desire to shift thereto. It is not as if without merging the shops in the residential portion it is not possible to have residence therein.

7. The counsel for the petitioner / landlord, on enquiry, whether the petitioner / landlord has filed the passports of himself and his sons and daughters or their copies before the Rent Controller, to show the visits to India of the petitioner / landlord, his wife and family members in the last ten years, replies in the negative. No copies of the passports are available today

also.

8. In the aforesaid facts and circumstances, I have enquired from the counsel for the petitioner / landlord as to why the requirement expressed by the petitioner / landlord in the petition for eviction should not at this stage be treated merely a desire or a wish and which is required to be established by evidence.

9. The counsel for the petitioner / landlord has relied on my judgment dated 29th January, 2010 in RC.Rev. No.35/2009 titled ***Sarwan Dass Bange Vs. Ram Prakash.***

10. In that case, as recorded in para 16 of the judgment, the landlord was employed with British Railways and had retired and stated that the reason why he was staying in UK was on account of his employment with British Railways and with the cessation whereof he was required to return to India. Another distinguishing feature is that the petitioner / landlord in the present case has available to him the residence behind the shops. The shops have never been part of the residence and are admittedly with the respondent/s/ tenant for long. The requirement pleaded of the shops is to merge the same as part of the residence. In this scenario it appears that the petitioner / landlord, if desires to come to India, is able to shift to the residence behind the shops. The petitioner / landlord has also not placed before this Court anything else to show that the petitioner / landlord has started winding up his affairs in UK in preparation of moving to India. So much so that there is nothing before this Court from which it can be gathered that the petitioner / landlord has at all been coming to India.

11. In these circumstances, I am of the view that no interference is required with the impugned orders.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 21, 2017/
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