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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 595/2016 & CM No.46333/2016 (for stay)
RAKESH KUMAR & ANR Petitioners

Through: Mr. Ravish Kumar Goyal, Adv.

Versus

M/S MUNNI LAL RAJ KUMAR Respondent

Through: Mr. Satya Prakash Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **14.11.2017**

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 6th June, 2016 in RC/ARC No.470/2016 of the Court of Additional Rent Controller, District East, Karkardooma Courts, Delhi] of dismissal, after full trial, of the petition for eviction filed by the petitioner under Section 14(1)(e) of the Act.
2. Notice of the petition was ordered to be issued and the counsel for the respondent has been appearing.
3. The counsel for the petitioners has argued that the petition for eviction has been dismissed only on the ground of the identification of the premises, with respect to which the petition for eviction was filed, being incomplete.
4. It is contended that there is no dispute that the petition for eviction was filed with respect to the premises in occupation of the respondent at Chotta Bazar, Shahdara and site plan of which premises was proved in the evidence.
5. The counsel for the respondent fairly agrees that the impugned order is erroneous and cannot be sustained.

6. Not only has the learned ARC passed an erroneous order on the aspect of identity of the property but has committed another error.
7. Though he was required to return a finding on all matters in issue before him but has chosen to dismiss the petition without returning any finding on the other matters in issue.
8. I have asked the counsel for the respondent whether he is willing to consent to the said aspects being considered by this Court in this petition, since the evidence is before this Court.
9. The counsel for the respondent states that the matter be remanded to the ARC for returning finding on the other aspects.
10. In the absence of consent of the counsel for the respondent, it would not be proper for me to, exercising revisionary jurisdiction, for the first time return findings on other aspects.
11. The petition is thus allowed.
12. The impugned order is set aside and the matter is remanded to the ARC for decision afresh after hearing the counsels.
13. On enquiry, it is informed that the same learned ARC is still presiding over the Court.
14. Sufficient delay and damage having been caused to the petitioners owing to the mistake and error of the learned ARC, it deemed appropriate to now direct the learned ARC to make good the same by expeditiously deciding the matter.
15. The petition for eviction, from which this petition arises, is restored to the same position as it was immediately prior to the order dated 6th June, 2016.

16. The parties to appear before the Court of the ARC, District East, Karkardooma Courts, Delhi on 21st November, 2017.

17. The learned ARC is directed to decide afresh the petition for eviction, after hearing the counsels, latest before the end of December, 2017.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 14, 2017

‘gsr’..