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

+ **CM(M) 724/2017**

GARIBANI DEVI (THROUGH LRS) & ANR. Petitioners

Through: **Mr. Hari Shanker, Adv.**

Versus

STATE & ANR

..... Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 18.07.2017

CM No.24969/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 724/2017 & CM No.24970/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order dated 15th May, 2017 of Additional Rent Controller (Central), Tis Hazari Courts, Delhi in SC/32749/16.
4. Vide the said order, the application of the petitioners for review of the order dated 21st March, 2017 was dismissed.
5. The order dated 21st March, 2017 has not been challenged in this petition.
6. Once the order dated 21st March, 2017 has been allowed to attain finality, the challenge to the order of dismissal of application seeking review thereof is not maintainable and is liable to be rejected. Supreme Court, in *Municipal Corporation of Delhi Vs. Yashwant Singh Negi* 2013 SCC OnLine SC 308 held that once the Court has refused to entertain the Review

Petition and the same is dismissed, there is no question of any merger and the aggrieved person has to challenge the main order and not the order dismissing the Review Petition because to the dismissal of the Review Petition the principle of merger does not apply. Reference was made to ***DSR Steel (Private) Limited Vs. State of Rajasthan*** (2012) 6 SCC 782 laying down that when the Review Petition is dismissed, the order of which review was sought, suffers neither any reversal nor an alteration or modification and anyone aggrieved by the order of which review was sought shall have to challenge the same and not the order dismissing the review petition. Applying the said principles, the SLP preferred against the order of dismissal of review without challenging the order of which review was sought was held to be not maintainable and was dismissed.

7. I have no hesitation in holding that what has been held with respect to Special Leave Petition under Article 136 applies equally to a petition under Article 227 of the Constitution of India.

8. I may also notice Order XLVII Rule 7 of CPC which expressly bars an appeal against an order rejecting the application for review. Though the language of the said provision is clear, reference may be made to the dicta of Division Bench of this Court in ***Govt. of NCT of Delhi Vs. Mool Chand Sharma*** 2013 (135) DRJ 705.

9. Even otherwise, I am appalled that the petition filed by the petitioners for succession certification as far back as in the year 1987 is still pending consideration.

10. A petition for succession certificate is to be decided summarily and there is no reason why it should remain pending for more than 30 years.

11. The learned Administrative Civil Judge vide impugned order dated 15th May, 2017 posted the matter for final arguments to 17th July, 2017.

12. The counsel for the petitioners informs that he took adjournment yesterday and now the matter is posted for final arguments to 4th August, 2017.

13. Though the petition is liable to be rejected as not maintainable but I have even otherwise satisfied myself that there is no error in the order dated 21st March, 2017. Vide the said order, the application of the petitioners for cross-examination of OW-5 was dismissed. The order dated 21st March, 2017 records that sufficient opportunity had been granted to the petitioners for cross-examination of the said witness; inspite thereof, vide order dated 24th November, 2016 another opportunity was granted to the petitioners for cross-examination of the said witness and whereafter the witness had been cross-examined at length by the petitioners.

14. In the entirety of the aforesaid circumstances, no case for interference with the order under Article 227 of the Constitution is made out.

15. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

JULY 18, 2017

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