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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. No.326/2017
MADHU JAIN & ANR Petitioners
Through: Mr. Amarjeet Sahni, Adv.
versus
MUNNI LAL MOTI LAL Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **21.07.2017**

CM No.25458/2017 (for exemption).

1. Allowed, subject to just exceptions.
2. The CM stands disposed of.

RC.REV. No.326/2017.

3. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order (dated 3rd June, in Case No.E-186/17 of the Pilot Court (Central), Tis Hazari Courts, Delhi) of grant of leave to the respondent / tenant to defend the petition for eviction under Section 14(1)(e) of the Act filed by the petitioner / landlord.
4. The reasons which prevailed with the learned Additional Rent Controller to grant leave to defend and as set-out in the impugned order are:-

“Perusal of the said partition deed shows that the petitioners have become the owners of shops bearing no.10,11,12&13 on the ground floor with other portions on other floors. It has been vaguely averred by the petitioners that other shops as well are in possession of various tenants. However, no name of the tenants or proof of tenancy in the form of rent receipt or rent agreement has been placed on record to show that shops

bearing no.10,11,&13 are also in occupation of other tenants and are not available with the petitioners for the bonafide requirement of petitioner no.2. Further, nothing has been placed on record by the petitioners to show that petitioner no.2 is presently carrying on his business with his younger brother Sh. Vikas Jain from shop no.9. Thus, triable issue is raised as to whether petitioner no.2 is presently doing his business with his younger brother from shop no.9 or running his business independently. Further, triable issue is also raised with respect to availability of other shops bearing no.10,11&13 with the petitioners for the alleged bonafide requirement.”

5. I did not find the petitioner / landlord, in the memorandum of this petition, to have challenged the said aspect. Thus it has straightaway been enquired from the counsel for the petitioner/ landlord as to how the aforesaid reasons given are factually incorrect.

6. The counsel for the petitioner / landlord is unable to tell so. His argument however is, that the respondent / tenant has set-up a title to the property adversely to the petitioner / landlord without filing any document.

7. Though the learned Additional Rent Controller in para 8 of the impugned order has noted the pleas in that regard but what has prevailed with the Additional Rent Controller to grant leave to defend to the respondent / tenant is the reasons as set-out hereinabove and not any doubt as to the ownership of the petitioner / landlord of the property or as to the existence of the relationship of landlord and tenant.

8. This Court in exercise of powers under Section 25B(8) of the Act can examine the order of the Additional Rent Controller only to satisfy itself that the order impugned is in accordance with law. Once the reason which

prevailed with the Additional Rent Controller to grant leave to defend are found to be in accordance with law, this Court ought not to entertain the petition.

9. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 21, 2017

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