

* IN THE HIGH COURT OF DELHI AT NEW DELHI

SURAJ ARORA

versus

..... Respondent

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CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

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CM No.1705/2017 (exemption) in CM(M) 55/2017

CM No.1768/2017 (exemption) in CM(M) 57/2017

Exemption allowed subject to all just exceptions.

CM(M) 55/2017 & CM No.1704/2017 (stay)

CM(M) 57/2017 & CM No.1767/2017 (stay)

CM(M)55/2017 & CM(M)57/2017

2. The petitioner has filed his written statement. He states that the rent of the property is Rs.1,065/- per month and that he is a protected tenant under the Delhi Rent Control Act.

3. The bone of contention between the parties is an Agreement for enhancement of rent dated 2.9.2012 by which the rent has been allegedly increased to Rs.12,780/- per month w.e.f. September 2012. According to the petitioner the said Rent Agreement is a bogus rent agreement. In the written statement he has said that he has never signed the said Agreement and the signature is forged.

4. While being cross-examined he has, however, admitted that the said document bears his signature.

CM(M) 55/2017

5. I will first deal with CM(M)55/2017. By this petition the petitioner seeks to challenge the order dated 5.9.2016 by which an application filed under section 151 CPC whereby he sought to lead additional evidence by examination of Shri Rakesh Anand his neighbour and Shri Pankaj Arora, his nephew who he states has been doing business alongwith him.

6. The trial court by the impugned order dismissed the said application. It noted that essentially what petitioner seeks to lead is additional evidence to prove that the rent agreement in question is a forged and fabricated document. Earlier also he had filed two applications under Order 18 Rule 17 CPC which were disposed of on 10.4.2015 and another application under section 151 CPC which was also disposed of on 25.4.2015. The trial court further noted that as far as Shri Pankaj Arora is concerned, the name of this person does not appear anywhere in the written statement. As far as Shri Rakesh Anand is concerned the trial court noted that as per earlier order

dated 10.4.2015 the petitioner was not permitted to recall PW-2 for re-examination in order to prove some alleged conversation recorded in CD by the petitioner. It further noted that Shri Rakesh Anand is sought to be brought as a witness to prove the alleged conversation recorded in the said CD. The application was hence dismissed.

7. In my opinion, the fact that the petitioner has repeatedly sought to lead additional evidence, as is clear from the earlier two applications itself justifies the fact that the present application filed by the petitioner is not bona fide. The neighbour and nephew of the petitioner, i.e. Rakesh Anand and Pankaj Arora who have not signed as a witness to the alleged agreement for enhancement of rent dated 2.9.2012 would not be necessary to prove the case of the petitioner. It appears to be a case of mere dilatory tactics. There are no reasons to interfere in the impugned order. Petition is dismissed.

CM (M) 57/2017

8. As far as CM (M) 57/2017 is concerned, by this petition the petitioner seeks to impugn the order dated 30.11.2016. By this order he sought to have sent the document that is the rent enhancement agreement dated 2.9.2012 to the Forensic Science Laboratory. In view of the earlier orders passed the trial court had dismissed this application.

9. At this stage, learned counsel for the petitioner submits that he may be permitted to lead evidence of a handwriting expert to prove that the document dated 2.9.2012 is a forged document. He submits that no list of witnesses had been filed by the petitioner and hence after the evidence of the petitioner was completed the trial court had closed the evidence of the petitioner.

10. The entire case is based on the document dated 2.9.2012. The

respondent claims rent was enhanced based on this document which is denied by the petitioner. In the interest of justice, subject to payment of costs of Rs.10,000/-, one last opportunity is granted to the petitioner to examine the handwriting expert. The petitioner would not be entitled to any adjournment on the date which the trial court fixes for recording of evidence of the handwriting expert.

11. It may be noted that the respondents have filed a Caveat 48/2017 in CM(M)57/2017. Despite service of advance copy the respondent has not entered appearance. The present petition is allowed in the above terms. All pending applications also stand disposed of.

12. Dasti.

JAYANT NATH, J.

JANUARY 17, 2017/n