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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12236/2016

LIFE INSURANCE CORPORATION OF INDIA

..... Petitioner

Through Mr.Ankur Goel and Mr.Lvekesh
Aggarwal, Advocate.

versus

VIRENDER KUMAR VINOD KUMAR

..... Respondent

Through None.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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13.01.2017

C.M. No.48286/.2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 12236/2016

The prayer clause in the petition has been perused.

This petition has laid challenge to the orders passed by the learned District Judge (appellate Body) under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The impugned order had relied upon a judgment pronounced by the Apex Court reported as 2014 (2) SCALE 223 Dr. Suhas H.Pophale Vs. Oriental Insurance Corporation Ltd. That judgment had laid down law as to the date when the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 may applicable in certain cases.

A review petition had been filed against the judgment of Suhas H.Pophale (supra) which had been dismissed on 09.9.2014. The curative petition was also declined on 10.9.2015. This position is admitted.

It is noted that the judgment of Suhas H.Pophale is the law as on date and has been followed by the Bench of the Apex Court in (2014) 16 SCC 321 Band Box Private Limited Vs. Estate Officer, Punjab and Sind Bank and Another reported and again in Damyanti Verma Vs. LIC SLP (C) 18415-19/2012 decided on 19.02.2014.

Since the ratio of Subhas H.Pophale is the law of the land as on date, this petition seeking to impugn the order of the District Judge dated 10.10.2014 (which is premised on the law laid down by the Apex Court in Subhas H.Pophale is not maintainable.

However, liberty is granted to the petitioner to approach the Court in case that judgment is varied/modified as the contention of the petitioner on this count is that there is a conflict in the law laid down by the two judge Bench of the Apex Court in Subhas H.Pophale qua the legal position in (1990) 4 SCC 406 Ashok Marketing Vs. Punjab National Bank (supra) and the matter is likely to be placed before the larger Bench of the Apex Court.

Petition is disposed in the above terms.

INDERMEET KAUR, J

JANUARY 13, 2017

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