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

+ CM(M) 870/2017

MEHMOOD ANSARI

..... Petitioner

Through: Mr. Shaad Anwar, Adv.

Versus

AKHTAR JAHAN

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **16.08.2017**

CM No.29005/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

CM(M) 870/2017 & CM No.29004/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 20th May, 2017 in RCT No.30290/2016 of the Court of Rent Control Tribunal (RCT)] of dismissal of the appeal filed by the petitioner/tenant against the order dated 8th July, 2015 of the Additional Rent Controller (ARC) allowing the petition of the respondent/landlord under Section 14(1)(a)&(j) of the Delhi Rent Control Act, 1958 subject to the outcome of inquiry under Section 14(2) of the Act.
4. I have enquired from the counsel for the petitioner/tenant the outcome of the inquiry under Section 14(2) of the Act.

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5. The counsel first stated that the petitioner/tenant has been paying rent. However, upon it being pointed out that granting of benefit of Section 14(2) of the Act has got nothing to do with the payment of rent, even if regularly, the counsel states that ‘concession’ has been given to him. It appears that the counsel is not understanding the conspectus of Section 14(2) of the Act. There must be a report before the ARC, whether the petitioner/tenant has complied with the order under Section 15(1) or not.
6. At this stage, the counsel for the petitioner/tenant draws attention to the order dated 10th August, 2015 of the ARC holding the petitioner/tenant entitled to the benefit of Section 14(2) of the Act.
7. Similarly, neither the order of the ARC nor of the RCT deals with Section 14(10) of the Act. However, the order dated 10th August, 2015 supra contains a direction to the petitioner/tenant to restore the tenanted premises to its original form within a month.
8. On enquiry, whether the petitioner/tenant has restored the premises to the original condition, the counsel for the petitioner/tenant states that the petitioner/tenant tried but the respondent/landlord called the police. On further enquiry, as to what happened before the ARC after 11th September, 2015, it is stated that the Trial Court file was called before the RCT and hence no further proceedings could take place.
9. On enquiry as to the grievance against the impugned order, the counsel states that the learned RCT has not granted benefit of Section 14(10) of the Act.

9. The learned RCT has merely dismissed the appeal and not interfered with the proceedings under Section 14(10) of the Act initiated by the ARC, and as evident from the order dated 10th August, 2015.

10. The counsel for the petitioner/tenant at this stage states that the petitioner/tenant filed an application under Section 151 CPC before the RCT which has been dismissed vide order dated 29th July, 2017 observing that since the petitioner/tenant did not comply with the order dated 10th August, 2015 and there was no stay thereof during the pendency of the appeal, the petitioner/tenant has not complied with the order and hence is liable for eviction. However, the order dated 29th July, 2017 is not under challenge in this proceeding.

11. No ground otherwise to interfere with the impugned order dated 20th May, 2017 of the RCT is urged.

12. The petition is dismissed; however the petitioner/tenant shall have liberty to take appropriate remedies against the order dated 29th July, 2017 supra.

RAJIV SAHAI ENDLAW, J.

AUGUST 16, 2017

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