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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 925/2017
MEHMOOD ANSARI Petitioner

Through: Mr. Shaad Anwar, Adv.

Versus

AKHTAR JAHAN Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **28.08.2017**

CM No.31109/2017 (for exemption)

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

CM(M) 925/2017 & CM No.31108/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order dated 29th July, 2017 in RCT No.30290/2016 of the Rent Control Tribunal, Tis Hazari Courts, Delhi.
4. The respondent filed a petition for eviction of the petitioner under Section 14(1)(a) and (j) of the Delhi Rent Control Act, 1958 and which petition was allowed vide order dated 8th July, 2015 subject to the outcome of enquiry under Section 14(2) of the Act.
5. The petitioner preferred an appeal under Section 38 of the Act to the Rent Control Tribunal and which appeal was dismissed on 20th May, 2017.
6. CM(M)No.870/2017 preferred by the petitioner against the order dated 20th May, 2017 of dismissal of the appeal was dismissed on 16th August, 2017.

7. The Additional Rent Controller (ARC), after the order dated 8th July, 2015 allowing the petition for eviction, vide order dated 10th August, 2015 in exercise of powers under Section 14(10) of the Act, directed the petitioner to, within a period of one month, restore the tenanted premises to its original form.
8. The petitioner did not so restore the premises, though there was no stay of the order dated 8th July, 2015 or 10th August, 2015 from the Rent Control Tribunal.
9. The petitioner, after dismissal on 20th May, 2017 of the appeal by the Tribunal, filed an application under Section 151 of the CPC before the Tribunal for grant of further time to restore the premises to its original position and which application has been dismissed vide the impugned order dated 29th July, 2017.
10. The Rent Control Tribunal, in the impugned order dated 29th July, 2017, has reasoned that since there was no stay granted during the pendency of the appeal before it, there was no stay of the direction under Section 14(10) during the pendency of the appeal before it and the petitioner cannot be allowed to seek further time of one month as sought to restore the premises to its earlier form.
11. The counsel for the petitioner has argued that the Rent Control Tribunal, during the pendency of the appeal before it, had called for the file of the ARC.
12. The aforesaid cannot be treated as a reason for the petitioner, if wanted extension of time, to within the period of one month from 10th August, 2015, apply to the ARC therefor.

13. The counsel for the petitioner next contends that though the petitioner had sought stay from the Rent Control Tribunal but it was not granted.

14. Once the stay sought by the petitioner has been declined by the Rent Control Tribunal, the petitioner ought to have preferred his remedies thereagainst and having failed to do so has ran the risk of, in the event of failing in the appeal, suffering the consequences of non compliance of the directions under Section 14(10) of the Act.

15. Even otherwise, the Rent Control Tribunal, after the dismissal of the appeal had become *functus officio* and unable to grant further time as sought.

16. There is thus no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 28, 2017

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