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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 403/2017**

TOSH KUMAR VARMA Petitioner

Through: Mr. Sushil Kumar, Adv.

Versus

RAM LAL Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.08.2017**

CM No.31407/2017 (for exemption)

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

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3. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 25th May, 2017 in R.C. No.5734/2016 of the Court of Senior Civil Judge (SCJ)-cum-Rent Controller (RC), New Delhi District, Patiala House Courts, Delhi] of grant of leave to the respondent to defend the petition for eviction under Section 14(1)(e) of the Act filed by the petitioner.

4. I have perused the paper book and also heard the counsel for the petitioner.

5. The learned Additional Rent Controller (ARC) has granted leave to defend reasoning that triable issues to the effect, whether the petitioner is the owner of the premises in occupation of the respondent, whether the respondent is a tenant under the petitioner and whether the premises in

occupation of the respondent are part of the property purchased by the petitioner vide Sale Deed dated 26th March, 1964, arise.

6. Though the counsel for the petitioner has argued that the petitioner along with the petition for eviction has filed counterfoils of the rent receipts issued for a decade and bearing the signatures of the respondent but the respondent, in the leave to defend application, has denied his signatures on the said counterfoils and has contended the same to have been forged and fabricated.

7. On enquiry, the counsel for the petitioner states that the petitioner is an income tax assessee but he has no instructions whether the petitioner has shown the rent realised from the respondent in his income tax returns.

8. On enquiry, whether in the property tax assessment of the property, the respondent is shown as the tenant of the petitioner, again no answer is forthcoming.

9. From the description of the property in the Sale Deed aforesaid also it cannot be made out whether the premises in occupation of the respondent are part of the property purchased thereunder. The counsel for the petitioner has no idea about the size of the shop purchased vide the said sale deed and it is nowhere on record whether the shop covers the entire 77½ sq. fts. area subject matter of the Sale Deed.

10. In the aforesaid circumstances, the order of the ARC is in accordance with law and requires no interference.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 30, 2017/‘gsr’..

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