

\$~23

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 30th November, 2017

+ CM(M) 1035/2017 & CM No. 34128/2017(stay)

SURENDER KUMAR GUPTA Petitioner

Through: Mr. Ashok Gurnani, Adv.

versus

JAGDISH RAWAT & ANR Respondents

Through: Mr. Atul Sharma, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The issue raised in the present petition essentially is between the petitioner on one hand and the second respondent on the other, she having been impleaded as a party to the civil suit instituted by the petitioner, which is pending trial in the court of the Senior Civil Judge, East. In the civil suit, the petitioner's case was that the first respondent (the husband of the second respondent) was a tenant. The possession of the demised premises has already been taken over by the petitioner. The suit survives only for the recovery of mesne profits.

2. The second respondent has been allowed to be impleaded as the second defendant on her application under Order I Rule 10 of Civil Procedure Code, 1908 against the objection taken by the petitioner

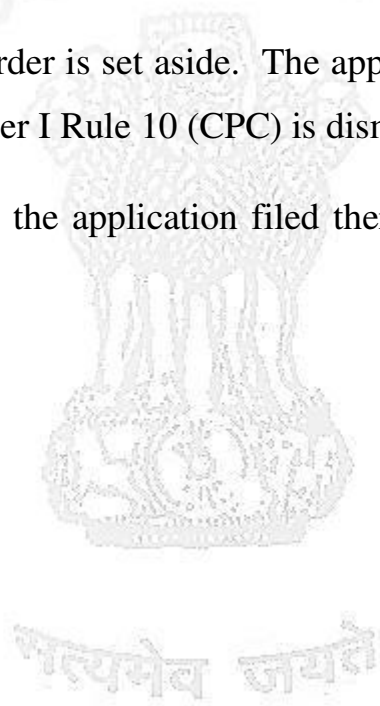
mainly to the effect that there is no connection between her and the premises in question.

3. On being asked, the counsel for the second respondent submits that she is the actual tenant in the premises and has been wrongly thrown out. If so, the second respondent will have to pursue her own remedy as available to her in law. She cannot impose herself on the petitioner in the suit in question particularly as it survives only for recovery of the mesne profits.

4. The impugned order is set aside. The application of the second respondent under Order I Rule 10 (CPC) is dismissed.

5. The petition and the application filed therewith stand disposed of accordingly.

6. *Dasti.*



R.K.GAUBA, J.

NOVEMBER 30, 2017

umang