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

+ CM(M) No.1049/2017 & CM No.34443/2017 (for stay).

TEJ SINGH

..... Petitioner

Through: Mr. R.K. Kapoor, Ms. Kheyali and
Ms. Shweta Kapoor, Advs.

versus

BAL KISHAN DASS GOEL & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **20.09.2017**

CM No.34444/2017 (for exemption).

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

CM(M) No.1049/2017 & CM No.34443/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 1st June, 2017 in RCT No.30517/16 of the Court of the Rent Control Tribunal (Hqrs.), Tis Hazari Courts, Delhi) of dismissal of the appeal preferred by the petitioner against the order (dated 28th November, 2016 in E-3/16 (New No.79547/16 of the Additional Rent Controller-2, Central, Tis Hazari Courts, Delhi) dismissing the application of the petitioner for impleadment in the petition for eviction filed by the respondent no.1 against the respondent no.2 under Section 14(1)(e) of the Delhi Rent Control Act, 1958.

4. The learned Additional Rent Controller vide judgment, also dated 28th November, 2016 allowed the petition for eviction filed by the respondent no.1 owing to the respondent no.2 having not applied for leave to defend.

5. The position thus today is that there is no petition for eviction in which the petitioner sought impleadment. In fact there was no petition for eviction in which impleadment was sought even on the day when the appeal before the Rent Control Tribunal was preferred. The appeal as well as this petition, are being pursued mindlessly.

6. Even otherwise, the filing of the application under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) was misconceived. The petitioner claims an independent title to the property with respect to which the order of eviction has been passed and also claims to be in possession of the property. The counsel for the petitioner has today argued that the petition for eviction was collusive.

7. I say that the filing of the application under Order I Rule 10 of the CPC was misconceived because the remedy if any of the petitioner on the aforesaid pleas is under Section 25 of the Act.

8. Dismissed.

9. No costs.

10. At this stage, the counsel for the petitioner withdraws the petition.

11. Dismissed as withdrawn.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 20, 2017

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