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

+ **RC.REV. 418/2017**

SUDESH ARORA

..... Petitioner

Through: Mr. Arvind Kumar, Adv.

Versus

RAJESHWAR KUMAR & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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05.09.2017

CM No.32298/2017 (for exemption)

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

RC.REV.418/2017 & CM No.32255/2017 (for stay)

3. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 16th September, 2016 in E No.26108/16 of the Court of Rent Controller (RC) (West), Tis Hazari Courts, Delhi] of dismissal of the application filed by the petitioner for leave to defend the petition for eviction under Section 14(1)(e) of the Act filed by the three respondents and the consequent order of eviction of the petitioner from one room/shop in property No.E-33, Guru Nanakpura, Jail Road, Janakpuri, New Delhi.

4. This petition has been filed after long delay of more than five months from the date when the period of six months statutorily granted to the petitioner to vacate the premises expired and after nearly one year from the date of the order of eviction.

5. The petition is liable to be dismissed on the ground of laches, acquiescence and waiver alone.

6. Though it appears that the order of eviction must have been executed by now but the counsel for the petitioner states that no execution has been filed till now.

7. In the petition for eviction from which this petition arises, it was *inter alia* averred that the premises from which the petitioner has been ordered to be evicted were let out to the mother of the petitioner long back and the petitioner, after the death of her mother, was not even using the premises for any purposes whatsoever and the same is lying locked.

8. The counsel for the petitioner also during his argument though does not dispute the same but has urged that the petitioner for two years prior to the institution of the petition for eviction in 2016 is not being permitted by the respondents to use the premises. On enquiry, whether the petitioner has taken any legal proceedings for restraining the respondents from interfering in the use by the petitioner of the premises, the counsel replies in the negative explaining that the petitioner is old and unable to take any steps.

9. It has next been enquired from the counsel for the petitioner that if the petitioner has admittedly not been using the premises for two years, why is the petitioner contesting the petition for her eviction and has also preferred this petition against the order of eviction. It has further been put to the

counsel that if the petitioner is old and unable to carry on any business or vocation in the premises from which she has been ordered to be evicted, she ought not to hold on to the premises, only for the purposes of coercing the respondents/landlords to gratify her for vacating the premises. The protection afforded by the Rent Act to the tenants from eviction is not intended to allow the tenants to, after they have ceased to have any requirement for the tenancy premises, hold on the tenancy premises misusing the protection so afforded, for the purposes of coercing the landlords to pay premium to the tenants for vacating the premises.

10. No answer has been forthcoming from the counsel for the petitioner.

11. I have otherwise perused the record and find the respondents to have pleaded in the petition for eviction (i) that the respondent No.1 Rajeshwar Kumar and the respondents No.2&3 Ravinder Nath Dhir and Smt. Shashi Jolly are the owners of property No.E-33, Guru Nanakpura, Jail Road, Janakpuri, New Delhi; (ii) that as per the settlement arrived in mediation, the property had been divided between the respondent No.1 Rajeshwar Kumar on the one hand and the respondents No.2&3 Ravinder Nath Dhir and Smt. Shashi Jolly on the other hand; (iii) that the premises in the tenancy of the petitioner has fallen to the share of the respondent No.1; (iv) that the respondent No.1 is residing in the property, having only one usable room and no other alternative accommodation; (v) that the family of the respondent No.1 comprises of his wife whose one leg was amputated due to a road accident; (vi) that though the son and daughters of the respondent No.1 were living outside India but visit their parents and one room in possession of the respondent No.1 is not sufficient for the family of the

respondent No.1, his handicapped wife and for the visiting son and daughters.

12. The petitioner sought leave to defend, not disputing the aforesaid status of the family of the respondent No.1 or the accommodation available in the property to the respondent No.1 or the handicap of the wife of the respondent No.1 but contending that the respondent No.1 was only a co-sharer and could not file the petition for eviction.

13. The learned ARC has in the impugned order correctly held that the leave to defend application filed by the petitioner did not disclose any such facts which could disentitle the respondents from obtaining an order of eviction of the petitioner under Section 14(1)(e) of the Act and resultantly dismissed the application for leave to defend and allowed the petition for eviction.

14. The counsel for the petitioner/tenant has also not argued anything to the contrary. Rather, at this stage, states that the petitioner/tenant be granted time to vacate the premises and does not want to challenge the order of eviction on merits.

15. Once the petitioner/tenant, according to her own admission also has not been using the premises at least for two years, no case for grant of any further time is also made out.

16. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 05, 2017

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