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

+ **CM(M) 1020/2017**

ABDUL QUDUS

..... Petitioner

Through: Mr. S.D. Ansari & Mr. I. Ahmed,
Advs.

Versus

SHAHJAHAN BEGUM & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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15.09.2017

CM No.33881/2017 (for exemption)

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

CM(M) 1020/2017 & CM No.33880/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 9th August, 2017 in CIS-RCT-21-2017 of the Rent Control Tribunal (RCT), South, Saket Courts, New Delhi] of dismissal of appeal filed by the petitioner against the order [dated 1st March, 2017 in Ex.No.20/2009 of the Court of Additional Rent Controller (ARC), South, Saket Courts, New Delhi] of dismissal of the application of the petitioner under Section 151 of the CPC for re-examination of DHW-1 in proceedings filed by him for execution of an order of eviction under Section 14(1)(e) of the Delhi Rent Control Act, 1958 and in which the respondents / defendants no.2 to 4 herein filed objections under Section 25 of the Act.

4. The petitioner, on engagement by the present counsel and contending that the earlier counsel did not have the evidence of the petitioner appearing as DHW-1 recorded correctly, wanted to re-examine himself.
5. No error can be found with the reasoning given by the ARC and the RCT, of it being not open in law to the petitioner to do so.
6. However, I find from the order of the ARC that the petitioner *inter alia* wanted to prove that the summons of the petition for eviction sent to property No.280 and 282 (being the same property) were refused by the respondent no.2 objector. The petitioner by wanting to re-examine himself, wanted to prove the said fact.
7. The summons on the Court file can always be seen by the Court. However, since this observation is being made without issuing notice of the petition, all that can be observed is that it will be open to the petitioner to contend so and the respondents no.2 to 4 shall be entitled to make their submissions on the said aspect and the learned ARC shall deal therewith.
8. As far as other evidence which was sought to be led is concerned, the same cannot be permitted now when the execution proceedings are pending for the last over ten years and are listed tomorrow i.e. 16th September, 2017 for final arguments.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 15, 2017

‘gsr’..