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

+ CM(M) No.963/2017 & CM No.32292/2017 (for stay).

SANTOSH BHUTANI

..... Petitioner

Through: Mr. Santosh and Mr. S.K. Mishra,
Advs.

versus

SAVITRI DEVI (SINCE DECEASED)

THR HER LRS NARESH KUMAR & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **05.09.2017**

CM No.32293/2017 (for exemption).

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

CM(M) No.963/2017 & CM No.32292/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 8th August, 2017 in E-78924/16 of the Court of Additional Rent Controller (Central), Tis Hazari Courts, Delhi) of dismissal of an application filed by the petitioner, during the course of cross-examination of the witness of respondents to place on record document, in a petition for eviction filed by the respondents under Section 14(1)(e) of the Delhi Rent Control Act, 1958.
4. The document sought to be filed is in an envelope addressed to the Pinki Super Store at Shop No.200, Ajmeri Gate, Delhi.
5. The counsel for the petitioner has argued that the said envelope addressed to Pinki Super Store at the address of Shop No.200, Ajmeri Gate, Delhi proves that the respondent Sushil Kumar @ Pinki is carrying on

business in the name and style of Pinki Super Store from the premises no.200, Ajmeri Gate, Delhi and which the respondent Sushil Kumar otherwise is disputing.

6. The impugned order records the stand of the respondent Sushil Kumar qua the said envelope, of the same containing *Rakhis* having been sent by a cousin of the respondent Sushil Kumar and having landed in the hands of the petitioner carrying on business from Shop No.201, Ajmeri Gate, Delhi, owing to the business in the name of Pinki Super Store having been closed by the said respondent Sushil Kumar more than 25 years ago and having been sent by a cousin who was not regularly in touch with the respondent Sushil Kumar and without knowing of the business having been shut down and that the same rather proved that the respondent Sushil Kumar was not carrying on the business from premises no.200, Ajmeri Gate, Delhi as else the envelope would not have landed in the hands of the petitioner.

7. The learned Additional Rent Controller has dismissed the application believing the aforesaid contention of the respondent Sushil Kumar and holding that the document is not relevant for determining the *bona fides* of the respondent Sushil Kumar and is not relevant to the dispute in question and could not be taken on record at that stage. It was further observed that the petitioner has been delaying the cross-examination of the witnesses of the respondents and had not even paid the fee of the Court Commissioner appointed for recording cross-examination. Vide the impugned order, last opportunity was given to the petitioner therefor.

8. It cannot be lost sight of that this petition under Article 227 of the Constitution of India arises from a proceeding under Section 14(1)(e) of the
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Rent Act, against the final order in which proceedings, no appeal or revision lies and the only remedy is by way of a review under Section 25(9) or by way of petition under Section 25(8) of the Act which allows this Court to only examine whether the order is in accordance with law or not. Interference by this Court in exercise of powers under Article 227 of the Constitution of India, with proceedings under Section 14(1)(e) of the Act even though of after leave to defend is granted has to be with great caution, so as to not unnecessarily interfere with the proceedings under Section 14(1)(e).

9. In the present case, the envelop which the petitioner wants to produce has already come on record and the respondents have not disputed the same and have only given their explanation therefor. It is thus felt that no interference at this stage is called for.

10. The petition is disposed of with the clarification that the petitioner, if entitled to in law at the stage of final arguments to refer to the said envelope would be entitled to do so and if aggrieved from the final order passed in the petition for eviction under Section 14(1)(e) of the Act, would also be entitled to urge the grounds as raised in this petition in remedy preferred thereagainst.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 05, 2017

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