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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.1012/2017
JAI BHAGWAN MALIK Petitioner
Through: Mr. Kali Charan, Adv.
versus

SUMAN LATA @ LATA DEVI & ORS Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **15.09.2017**

1. This petition under Article 227 of the Constitution of India impugns the order (dated 15th July, 2017 in RCT/2/16 of the Court of Rent Control Tribunal (North-East) District, Karkardooma Courts, Delhi) of dismissal of appeal filed by the petitioner against the order (dated 18th January, 2016 in RC/ARC No.7365/15 (Old no.E-38/15) of the Court of Additional Rent Controller (North-East) District, Karkardooma Courts, Delhi) not passing an order under Section 15(1) of the Delhi Rent Control Act, 1958 in a petition for eviction under Section 14(1)(a) of the Act.

2. Though I had presumed that this petition must be by the landlord, aggrieved from non-passing of order under Section 15(1) of the Act, but the counsel for the petitioner points out that this petition is by the tenant and not by the landlord.

3. Though the order of the Rent Control Tribunal is totally in ignorance of the Rent law, as is the case in several other matters coming before this Court but I have enquired from the counsel for the petitioner / tenant how can the petitioner / tenant be aggrieved from the non-passing of order under

Section 15(1) of the Act and dismissal of an appeal preferred thereagainst.

4. The counsel for the petitioner / tenant states that the passing of the order under Section 15(1) of the Act is mandatory.

5. Undoubtedly so and which is what the learned Rent Control Tribunal has erred in not noticing and in dismissing the appeal, observing that it was for the petitioner / tenant to apply therefor. A bare perusal of Section 15(1) of the Act shows the mandatory nature of the order, without any application to be filed under Section 15(1) of the Act.

6. I am however surprised that the landlord is not aggrieved from non-passing of the order under Section 15(1) and rather, as is recorded in the impugned order, to have opposed the appeal preferred by the petitioner / tenant.

7. However if the respondent / landlord has not pressed for an order under Section 15(1) of the Act at the stage before the commencement of trial, as is required to be done and opposed the appeal, all that can be observed is that the respondent / landlord will suffer therefor or the order under Section 15(1) of the Act will have to be passed at the stage of final adjudication of the petition for eviction, else no order can be passed therein.

8. The counsel for the petitioner / tenant has stated that the relationship of landlord and tenant is not in dispute and there was no other reason for non-passing of the order under Section 15(1) of the Act and in no other order of the Additional Rent Controller has the aspect of Section 15(1) of the Act been considered.

9. As far as the grievance of the petitioner / tenant of being unable to pay the rent is concerned, it is always open to the petitioner / tenant to tender the

rent to the respondent / landlord and if the respondent / landlord refuses to receive the same, to deposit the same in the Court under Section 27 of the Act.

9. Once the petitioner cannot be said to be aggrieved from non-passing of the order under Section 15(1) of the Act, the question of entertaining this petition does not arise.

Dismissed.

No costs.

Dasti.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 15, 2017

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