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

+ CM(M) 1054/2017

RAJINDER DEWAN & ORS

..... Petitioners

Through: Mr. Hitendra Kumar Nahata, Ms.
Surbhi Tandon and Ms. Ritu Jain,
Advs.

Versus

MOHD ASIF

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.09.2017

CM No.34612/2017 (for exemption)

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

CM(M) 1054/2017 & CM No.34611/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order (dated 22nd August, 2017 in RCT No.04/2017 of the Court of Rent Control Tribunal (RCT) (HQs), Tis Hazari Courts, Delhi) of dismissal of an appeal preferred against the order dated 23rd November, 2016 in E No.579/2013 of the Court of Additional Rent Controller (ARC)-1 (Central), Tis Hazari Courts, Delhi, in exercise of power under Section 15(1) of the Delhi Rent Control Act, 1958 directing the petitioners to pay to the respondent or deposit rent with effect from 1st December, 2010 till the date of that order along with interest @Rs.10/- per month and to continue to pay / deposit future rent @ Rs.10/- per month to the respondent.

4. The contention of the counsel for the petitioners is (i) that the petitioners, in the written statement disputed the relationship of landlord and tenant with the respondent; (ii) that the respondent relied on a rent note purported to be executed by the predecessor of the petitioners and some rent receipts and the signatures whereon were also denied by the petitioners; (iii) that in the face of the said denial, no order under Section 15(1) of the Rent Act should have been passed till the respondent during trial, establishes a relationship of landlord and tenant with the petitioners.

5. The learned ARC in the impugned order has reasoned (a) that while the respondent had placed the rent note and the rent receipts before the Court, the plea of the petitioners was that they had occupied the property since independence in the year 1947 on migration from Pakistan and had been living there without any interference from any person whatsoever; (b) that the petitioners are bound by the rent note executed by their predecessor.

6. The RCT has reasoned that the order under Section 15(1) of the Act is on a *prima facie* view of the matter and would not come in the way of the parties leading evidence on the aspect of the relationship of landlord and tenant.

7. Considering that the plea of the petitioners of having occupied the property without any lawful title thereto and it being not the case that the property was allotted to the petitioners by the Department of Rehabilitation and further considering that the direction for payment is @ Rs.10/- per month only, no ground for interference under Article 227 of the Constitution of India is made out.

8. I have enquired from the counsel for the petitioners, whether the petitioners have declared themselves as owners of the property before any authority and/or have exercised any rights as owners; even by payment of property tax.

9. The counsel for the petitioners though vaguely states that the petitioners would be filing a suit for declaration but admits that there is nothing on record as yet.

10. In this state of affairs, no error is found in the *prima facie* view required to be taken on the stage of Section 15(1) of the Act [see ***Pritam Dass Vs. Jiya Rani*** AIR 1981 Del 269 (FB)] and no interference in the impugned order is called for.

11. The counsel for the petitioners then states that the order may be modified to that under Section 15(4) from that under Section 15(1) of the Act.

12. Considering the rate at which payment/deposit has been directed and considering the fact that the petitioners at least till now have not disclosed any lawful title otherwise than as tenants in the premises, no case therefor either is made out.

13. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 20, 2017

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