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

+ CM(M) 1108/2017

NARENDER AGGARWAL Petitioner
Through: Petitioner-in-person.

Versus

ANNU @ KAJAL Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **10.10.2017**

CM No.36254/2017 (for exemption)

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

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3. One gentleman who states that he is the petitioner, seeks to argue the matter in person.
4. However, since the petition has been filed through advocate, I have enquired about the same.
5. The petitioner Narender Aggarwal states that he will argue in person and his advocate who has filed the petition will not argue.
6. The petitioner appearing in person has been heard.
7. This petition under Article 227 of the Constitution of India impugns the order [dated 27th April, 2016 in RCA No.220/2016 (CNR No.DLKA01-001857-2016) of the Court of Rent Control Tribunal (East), Karkardooma

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Courts, Delhi] of dismissal of the appeal filed by the petitioner against the order dated 16th July, 2013 in M No.49/2012 of the Court of Rent Controller, Shahdara, Karkardooma Courts, Delhi of dismissal of an application filed by the petitioner under Order IX Rule 4 of the Code of Civil Procedure, 1908 (CPC) for restoration of the petition for eviction, being E No.127/2009 under Section 14(1)(a) of the Delhi Rent Control Act, 1958 filed by the petitioner, dismissed in default of appearance of the petitioner on 3rd November, 2012.

8. The petitioner appearing in person has argued that he is a senior citizen and a heart patient and that the defence of the respondent to the petition for eviction already stood struck off and the respondent has not paid rent till now.

9. This petition challenging the order dated 27th April, 2016, itself has been preferred after one and a half years of the order impugned. The appeal before the Rent Controller Tribunal also appears to have been filed after a delay of three years.

10. The application seeking restoration was dismissed reasoning that no reasonable and sufficient cause for non-appearance of the petitioner had been disclosed and the petition for eviction had been dismissed in default on an earlier occasion also and was restored on the same grounds, as taken this time, having been taken earlier also. The said finding of fact was confirmed by the Rent Control Tribunal.

11. No case for condoning the consistent defaults of the petitioner or for interfering, in exercise of jurisdiction under Article 227 of the Constitution

of India, with concurrent findings of fact of the Rent Controller and the Rent Control Tribunal is made out.

12. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

OCTOBER 10, 2017

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