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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1136/2017
RAM PRAKASH Petitioner

Through: Petitioner-in-person.

Versus

SHEIKH NASIM AHMED Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **16.10.2017**

CM No.36999/2017 & CM No.37001/2017 (both for exemptions)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

CM(M) 1136/2017 & CM No.37000/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 23rd August, 2017 in Ev. No.5037/2016 of the Court of Additional Rent Controller (ARC), South-East District, Saket Courts, New Delhi] pursuant to the order dated 3rd March, 2016 in CM(M) No.962/2015 arising from the same proceeding as this petition earlier preferred by the petitioner.

4. The petitioner has instituted petition for eviction of the respondent under Section 14(1)(g) of the Delhi Rent Control Act, 1958. The said petition was allowed on 22nd October, 2001 and the respondent exercised the option to repossess the premises and handed possession of the premises in his tenancy to the petitioner for carrying out the proposed works.

The petitioner on his part undertook to put the respondent back into possession of the earmarked premises on 9th May, 2012. The respondent was however put back into possession of the premises only on 2nd September, 2013.

5. On 3rd March, 2016, in CM (M) No.962/2015 supra, it was agreed between the parties that the order dated 26th February, 2014 in RCT/ARCT No.18/2013 of the Court of Rent Control Tribunal (RCT), South-East District, Saket Courts, Delhi (remanding the matter to the Additional Rent Controller (ARC) for consideration of the question, whether the petitioner is entitled to any increase in rent) be modified by also remanding the matter to the ARC for consideration, whether the petitioner was entitled under Section 20(3) of the Act to, instead of putting the respondent in possession of the tenancy premises, pay compensation to the respondent.

6. The grievance of the petitioner is that the ARC in the impugned order dated 23rd August, 2017 has not considered the aspect of the petitioner paying to the respondent compensation instead of putting the respondent back in possession.

7. A perusal of the impugned order dated 23rd August, 2017 shows the ARC to have held that Section 20(3) of the Act does not give any option to the landlord to offer compensation instead of returning the premises to the tenant and that compensation is payable to the tenant only when the Court is of the view that the premises cannot be made available at all due to circumstances that may exist.

8. It is thus not as if the ARC has not considered the aspect of compensation in lieu of putting back the respondent / tenant in possession.

9. The Act provides for the remedy of appeal against the order of the Rent Controller / ARC to the RCT though the Act as it stood prior to 1st December, 1988 provided for Second Appeal to this Court but the said provision was deleted.

10. Article 227 of the Constitution of India can be invoked against the order of the Rent Control Tribunal, which has been conferred the status of finality, only within the confines of parameters thereof.

11. The petitioner appearing in person argues that the respondent delayed applying for being put into possession was put into possession of the premises in a wrong proceeding.

12. I am refraining from entering into the aforesaid arguments.

13. As aforesaid, the remedy against the order of ARC is before the RCT.

14. The petition is dismissed as not maintainable with liberty to the petitioner to approach the RCT.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 16, 2017

‘gsr’..