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

+ CM(M) 965/2015

ARVINDER SINGH

..... Petitioner

Through: Mr.Peeyoosh Kalra & Mr.Shiva
Sharma, Advocates.

versus

DELHI WAQF BOARD & ORS

..... Respondents

Through: Mr.Syed Mehdi Zaidi & Mr.Hashnat
Nabi, Advocates.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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19.05.2017

1. The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India by impugning the order dated 28th May, 2015 which reads as under:-

28.05.2015

Present: Petitioner in person.

*Sh.Anuj Gupta, Ld.Counsel for respondent No.2
with respondent No.2 in person*

*Sh.Mohd.Qaiser, Legal Officer on behalf of
respondent No.1*

None for respondents No.3 & 4.

*Court notice issued to Ms.Sarabjit Kaur received back
unserved with the report that she resides in U.S.*

*Court notice issued to Ms.Kawaljit Kaur received back
unserved with the report that the address could not be traced.*

Report on Court notice issued to Ms.Jasmeet Kaur not received back.

It is stated by learned counsel for the respondent No.2 that the Court cannot adjudicate upon devolution of tenancy rights in the present proceedings.

Petitioner states that the correct address of Ms.Kawaljit Kaur is #71/52, Second Floor (back side), Prem Nagar, Janakpuri, New Delhi-110058.

Issue Court notice to Ms.Kawaljit Kaur at the aforementioned address and fresh Court notice to Ms.Jasmeet Kaur.

Application u/s 27 of the DRC Act filed by respondent No.2 on 13.04.2015 is disposed of in view of the provisions of Order I Rule 10 CPC which enables the Court to implead parties if in the opinion of the Court, their presence will enable the Court to effectually adjudicate upon issues involved in the petition, more so when the petitioner and respondents no.2, 3 & 4 are all claiming their exclusive tenancy rights in respect of the tenanted premises, which prima facie appears to be contrary to the facts.

Renotify on 02.07.2015.

*Sd/-
ACJ/ARC (Central)
Delhi/28.05.2015”*

2. Learned counsel for the petitioner has contended that in an application under Section 27 of the Delhi Rent Control Act there cannot be any adjudication of the tenancy rights hence the learned ARC could not have issued Court notices to the other legal heirs of late Sh.Rattan Singh by exercising discretionary power under Order I Rule 10 CPC to implead the parties. The submission by learned counsel for the petitioner is that effect of issuing notices to the other parties has resulted in changing the course of proceedings to devolution of tenancy on the legal heirs though the proceedings under Section 27 of the Delhi Rent Control Act are procedural in nature under which the rent can be deposited by the tenant in case the

conditions specified therein are satisfied.

3. Learned counsel for the petitioner has further submitted that the learned ARC has converted the procedural proceedings into substantive proceedings which is not permissible under law and beyond the scope of the jurisdiction vested under Section 27 of the Delhi Rent Control Act.

4. The facts of the case are mentioned by the petitioner in para No.2 of this petition which are as under:-

(i) Sh.Rattan Singh was a tenant in respect of the property bearing number 4297, Khasra No.162, Dargah Bholu Shah, Pili Kothi, Delhi-110006. He expired on 8th July, 2001 leaving behind the following legal heirs:-

- (a) Smt.Satwant Kaur, widow
- (b) Sh.Arinder Singh, son
- (c) Sh.Rajinder Singh, son
- (d) Smt.Manjit Kaur, daughter
- (e) Smt.Jasmeet Kaur, daughter
- (f) Smt.Sarabjit Kaur, daughter
- (g) Smt.Kanwaljit Kaur, daughter
- (h) Smt.Ranjeet Kaur, daughter

(ii) The tenancy devolved in favour of the widow and her two sons who are in possession of tenanted premises.

(iii) Rent is being deposited under Section 27 of Delhi Rent Control Act.

5. The petition under Section 27 of Delhi Rent Control Act was filed by respondent No.2 Sh.Rajinder Singh - brother of Arvinder Singh – petitioner before this Court wherein Arvinder Singh filed an application under Order I Rule 10 CPC which has been allowed by learned ARC vide order dated 23rd

February, 2015 by passing the following order:-

“23.02.2015

Present: Sh.Ravinder Rawat, Ld.Counsel for petitioner with petitioner in person

Sh.Mohd. Qasar, Legal Officer on behalf of respondent No.1.

Sh.Arinder Singh, respondent No.2 in person.

Ms.Geeta Vohra, Ld.Counsel for applicants, Ms.Satwant Kaur and Ms.Ranjeet Kaur with both the applicants in person

It is stated by Ld.counsel for petitioner that he does not want to file any reply to application Under Order 1 Rule 10 CPC filed by Ms.Satwant Kaur and Ms.Ranjeet Kaur. However, reply to objections filed by respondent No.1 has been filed on behalf of the petitioner. Copy supplied to Legal Officer of respondent No.1.

Despite two opportunities, no reply to application Under Order I Rule 10 CPC has been filed by respondent No.2. He seeks further time to file reply to the said application. No reasonable ground is assigned by respondent No.2 for not filing reply to application under Order I Rule 10 CPC.

Arguments on application under Order I Rule 10 CPC heard.

The application is allowed and Ms.Satwant Kaur and Ms.Ranjeet Kaur, widow and daughter of the deceased, Sh.Ratan Singh are impleaded as respondents no.3 & 4. Amended memo of parties be filed.

Issue Court notices to Ms.Manjit Kaur, Ms.Jasmeet Kaur, Ms.Sarabjit Kaur and Ms.Kawaljit Kaur, other daughters of the deceased, Sh.Ratan Singh.

Respondents No.3 & 4 are requested to assist the Court by filing complete addresses of Ms.Manjit Kaur, Ms.Jasmeet Kaur, Ms.Sarabjit Kaur and Ms.Kawaljit Kaur, other daughters of the deceased, Sh.Ratan Singh.

Renotify on 14.04.2015.

*Sd/-
ACJ/ARC (Central)
Delhi/23.02.2015”*

6. Learned counsel for the respondent has drawn the attention of this Court to the application under Order I rule 10 CPC filed by the petitioner Sh.Arinder Singh in a petition under Section 27 of the Delhi Rent Control Act filed by her brother Sh.Rajinder Singh impleading Delhi Wakf Board as the respondent. It has been contended that it was only on the application filed by the present applicant Sh.Arinder Singh that he along with his mother and sisters was impleaded as party.

7. The order dated 23rd February, 2015 cannot be assailed by the petitioner as the application under Order I Rule 10 CPC allowed by the Court was filed by him and Court notices were sent to the legal heirs of late Sh.Ratan Singh. On 28th May, 2015, the learned ARC has issued Court notices to Smt.Kawaljit Kaur and Smt.Jasmeet Kaur, who are legal heirs of late Sh.Ratan Singh.

8. The only contention raised on behalf of the petitioner is that devolution of tenancy rights is beyond the scope of Section 27 of the Delhi Rent Control Act.

9. Perusal of the impugned order shows that in DR No.354/2013/12 the application filed by the petitioner Sh.Arinder Singh under Order I Rule 10 CPC was allowed and Court notices were ordered to be issued to the legal heirs of deceased Sh.Rattan Singh. Vide order dated 28th May, 2015, the learned ARC has issued Court notices to the sisters of the petitioner observing that the Court can implead parties if in the opinion of the Court their presence will enable the Court to effectually adjudicate upon issues involved in the petition, more so when the petitioner and respondents no.2, 3 & 4 are all claiming their exclusive tenancy rights in respect of the tenanted premises, which *prima facie* appears to be contrary to the facts.

10. There is no material on record that after allowing the application under Order I Rule 10 CPC filed by the petitioner Sh.Arinder Singh in an application under Section 27 of Delhi Rent Control Act for deposit of rent, there had been any adjudication in respect of the tenancy rights which he can claim to be beyond the scope of the application under Section 27 of the Delhi Rent Control Act and for deposit of rent.

11. The petition is dismissed.

PRATIBHA RANI, J.

MAY 19, 2017
'hkaaur'