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

+ W.P.(C) 11468/2017

IBRAT JAHAN

..... Petitioner

Through: Mr V. C. Gautam, Advocate.

versus

THE STATE & ORS

..... Respondents

Through: Mr Naushad Ahmed Khan, ASC
(Civil), GNCTD with Ms Deepshikha
Goyal, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.12.2017

CM No.46745/2017

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition, *inter alia*, praying that respondent nos.1 to 4 be directed to ensure that possession of the property bearing no.7303, Ground Floor, Gali Gurdware Wali, Sadar Bazar, New Delhi be handed over to the petitioner. It is the petitioner's case that the said premises was occupied by one Ms Rehana (since deceased), who was a tenant of the property in question. Ms Rehana expired in February, 2017. It is claimed that she was found dead in the said premises and, accordingly, the police took steps to preserve the site for further investigation.

3. The petitioner alleges that the police authorities have colluded with

the brother of Rehana and have permitted him to occupy the property in question.

4. The status report furnished by the police authorities clearly indicates that the police authorities had taken steps to preserve the spot, and after the inspection had been done and photographs had been taken by the crime team, the body of Rehana was taken to the mortuary. It is further stated that the premises were neither locked nor were the keys available with the police authorities.

5. It does appear from the above that the police authorities had not taken any steps to make any inquiry as to whom the possession of the property should be handed over. However, having stated above, this Court is not persuaded to accept that the premises ought to have been handed over to the petitioner straightaway. The next kin of the deceased, Rehana, would be entitled to remove her belongings. Merely because a tenant expires does not entitle the landlord to immediately take physical possession of the tenanted premises. The next of kin/heirs of a deceased tenant would in any case be entitled to take over possession of the said premises temporarily.

6. The petitioner may be correct in her submission that she is entitled to possession of the said premises after the tenant (Rehana) had expired; however, it would be necessary for her to seek the same from the heirs of the deceased and if they do not comply, institute an appropriate proceeding for recovery of possession.

7. In view of the above, the present petition is disposed of with liberty to the petitioner to institute appropriate proceedings for eviction. Needless to

state, if such proceedings are filed the same would be considered in accordance with law.

VIBHU BAKHRU, J

DECEMBER 21, 2017
MK