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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 4/2016 & CM No.99/2016 (for stay).
SAVITRI SHARMA Petitioner

Through: Mr. Rajiv K. Garg, Adv.

versus

ASHA RANI & ORS Respondents

Through: Mr. Mohit Khanna, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.11.2017

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 29th September, 2015 in E-262/14 of the Court of Additional Rent Controller-1 (Central), Tis Hazari Courts, Delhi] granting leave to the respondents to defend the petition for eviction under Section 14(1)(e) of the Act filed by the petitioner.
2. The petition was entertained and notice thereof ordered to be issued.
3. The counsel for the respondents / tenants has been appearing.
4. The counsels have been heard.
5. The counsel for the petitioner / landlady has fairly stated that the only point on which notice of the petition was issued and to be urged in this petition is, whether the leave to defend application filed by the respondents / tenants was within time or not. It is contended that though the leave to defend application filed by the respondents / tenants was within 15 days from the date of second service of the summons of the petition for eviction on the respondents / tenants but was beyond 15 days from the date when the summons of the petition for eviction were first served on the respondents /

tenants. Reliance in this regard is placed on *Ashok Kumar Vs. Purshotam Lal Verma* 233 (2016) DLT 761 (DB) holding that the period of 15 days for filing leave to defend is to be computed from the date of first service and not second service.

6. I may notice that the law as prevalent in Delhi prior to the aforesaid judgment of the Division Bench of this Court was, the period of 15 days being computed from the date of last service of the summons of the petition for eviction, when summons were issued and served by multiple modes. To that extent, the Division Bench has overruled the earlier judgments.

7. The date of service of the summons on the respondents, in the present case, is prior to the date of the judgment aforesaid of the Division Bench; if the counsel for the respondents / tenants, relying on the earlier judgments declaring law in this respect, was of the view that the leave to defend could be filed within 15 days from the date of the last service, it cannot be said that there was any delay or negligence on the part of the respondents / tenants.

8. Though the Supreme Court in *Prithipal Singh Vs. Satpal Singh* (2010) 2 SCC 15 has held that the delay in applying for leave to defend cannot be condoned and following the same this Court has taken a view that even this Court is not entitled to condone the delay but I have vide order dated 16th August, 2017 in RC.REV. 279/2014 titled *Director Education Vs. Mohd. Shamim* referred the said question to a larger Bench of this Court and which Reference is pending consideration.

9. In the aforesaid view of the matter, it is not deemed appropriate to keep this petition pending awaiting the outcome of the said reference and it

is deemed expedient that the trial in the petition for eviction from which this petition arises proceeds and is not hampered by the pendency of this petition.

10. For the aforesaid reasons, the petition is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 03, 2017

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