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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 648/2018

YOGENDER SEN MANCHANDA & ORS Petitioners

Through: Mr. Tanmay Mehta & Mr. Tarun
Agarwal, Advocates.

versus

M/S S S INVESTMENTS

..... Respondent

Through: Mr. Harvinder Singh, Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.08.2018

Vide the present petition, the petitioner assails the impugned order dated 22.12.2017 of the learned SCJ-cum-RC in RC ARC No.5603/16, vide which it has been observed to the effect that as the defence of the respondents, i.e., the present petitioners to the said Eviction Petition bearing No.7/12 now bearing no.5603/16, had been struck off qua the application under Order XII Rule 6 of the CPC filed by the respondents to the present petition, had become infructuous and the matter has been fixed for the date 20.01.2018, it having been submitted on behalf of the present petitioners that the contention of the petitioners qua the applicability of Order XII Rule 6 of the CPC in view of the submission made by the present petitioners as respondents before the learned RC to the effect that pursuant to the notice issued qua non-payment of rent, the rent had already been deposited by the

present petitioners as respondents to the said petition in terms of the proceedings in DR 39/12 under Section 27 of the DRC Act, 1958 as amended even if the defence of the respondents to the eviction petition had been struck off, the said aspect could not have been overlooked and has essentially to be considered.

It has also been submitted on behalf of the petitioners to the present petition and not refuted on behalf of the respondent that there is a stay on the pronouncement of the final judgment in the eviction petition in view of an appeal having been filed by the present petitioners against an order dated 14.12.2017 in RCT No.2/18 vide which there is a challenge made to the striking off the evidence.

It is apparent that the contention raised by the petitioners herein qua applicability of Order XII Rule 6 of the CPC has essentially to be considered by the learned RC and it is submitted thus on behalf of the petitioners that the same may be allowed to be considered at the time of final arguments.

On behalf of the respondent to the present petition, it has been submitted that such a prayer may be allowed to be considered only subject to the final outcome in RCT No.2/18 in which the prayer made by the present petitioners herein as the respondent to the eviction petition against order dated 14.12.2017 assailing the striking off the defence has been filed.

As already observed hereinabove, it has already been observed to the effect that the aspect qua applicability of Order XII Rule 6 of the CPC in view of submissions made on behalf of the petitioner qua

deposit of the rent in terms of Section 27 of DRC Act, 1958 as amended in DR 39/12 pursuant to a notice issued by the respondents, i.e., the petitioners of the eviction petition has essentially to be considered at the time of adjudication.

In the circumstances, the contention raised on behalf of the respondent to the present petition now to the effect that such a prayer as made by the petitioners to the effect that the applicability of Order XII Rule 6 of the CPC to the proceedings may be considered at the stage of final arguments would essentially have to be allowed.

The petition is disposed of with directions to the learned RC, New Delhi to the effect that the aspect of applicability of Order XII Rule 6 of the CPC has essentially to be considered at the time of pronouncement of judgment in the said proceedings. The petition is disposed of accordingly.

Copy of this order be sent to the learned RC, New Delhi.

ANU MALHOTRA, J

AUGUST 07, 2018/NC