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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 52/2018 & CM No. 5449/2018
DANISH & ANR Petitioners
Through: Mr. S.D. Ansari, Adv.

versus

SOM DUTT MOHANPURIA & ANR Respondents
Through

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **12.02.2018**

The impugned order dated 31.07.2017 was passed by the Additional Rent Controller on the petition (case no. E-327/17) of the respondents thereby rejecting the application for leave to defend in favour of the petitioners and consequently allowing the petition of the respondents herein for granting an order of eviction under Section 14 (1) (e) of Delhi Rent Control Act, 1958. It appears from the pleadings of the parties that it is undisputed that the tenancy was created in respect of the subject premises in favour of Mohd. Sultan @ Badshah. The petitioners are two of the legal heirs of the said Mohd. Sultan @ Badshah, he having passed away. Though objection of non-joinder of other legal heirs of the original tenant (since deceased) was also raised as one of the contentions in the application for leave to contest, the prime issue required to be addressed was as to whether after the death of said original owner, his legal heirs would succeed as joint tenants or tenants in common. The learned Additional Rent Controller has proceeded on the assumption that the tenancy rights would devolve in the

present case on the petitioners herein and other legal heirs of the original tenant as “joint tenants”.

The grievance of the petitioners is that the learned Trial Judge has failed to bear in mind the correct law on the subject, reliance being placed on *T.Ravi & Anr. vs. B. Chinna Narasimha & Ors. etc., Civil Appeal Nos. 4731-4732 of 2010* and *Mt. Fardosjahan Begum & Ors. vs. Kazi Shafiuddin & Ors., AIR (29) 1942 Nagpur 75*.

After some hearing, learned counsel for the petitioners submitted, on instructions, that he may be allowed to withdraw the present petition and the application filed therewith and instead be given liberty to approach the Additional Rent Controller by review application and in the meanwhile be granted protection against execution.

In view of the above, the petition and the application are dismissed as withdrawn. The petitioners are granted liberty to file a review application within two weeks hereof. It is directed that the impugned order of eviction shall not be executed for the period of two weeks and in the event of application for review being submitted in terms of the liberty granted within the period specified, till adjudication on the review application.

Dasti under the signatures of Court Master.

R.K.GAUBA, J

FEBRUARY 12, 2018

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