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

+ O.REF. 1/2018

SULAKHAN SINGH

..... Petitioner

Through: None.

versus

AJIT SINGH

..... Respondent

Through: Mr. Rishabh Sharma, Advocate (M.
No.9654778070).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **24.09.2018**

1. This Original Reference is made under Section 113 of Code of Civil Procedure, 1908(CPC) by the Court of Sh. Navjeet Budhiraja, ACC/CCJ/ARC(West), Tis Hazari Courts, Delhi for this Court to opine on the matter as to whether on the death of a statutory tenant the tenancy rights which are inherited by the legal heirs of the deceased tenant, are those of joint tenants or tenants in common, with the further fact that if inheritance of tenancy is a joint tenancy by joint tenants, then whether in a suit filed by the landlord it is not necessary to implead all the legal heirs and only certain legal heirs can be impleaded and who can be said to legally correctly

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represent the tenancy estate of the deceased statutory tenant.

2. I need not answer this Reference in detail because the issue is now covered directly by the recent judgment of the Supreme Court in the case of ***Suresh Kumar Kohli Vs. Rakesh Jain & Another 2018 (6) SCALE 344: 2018 (4) JT 564***. It has been held by the Supreme Court in this judgment that tenancy is one indivisible tenancy and on the death of the tenant/statutory tenant, the legal heirs inherit the tenancy as joint tenants, and occupation of one of the tenants is occupation of all the joint tenants. It has been further held by the Supreme Court that it is not necessary for the landlord to implead all legal heirs of the deceased tenant whether they are occupying the tenanted property or not, and in law it is sufficient for the landlord to implead all those persons who are occupying the tenanted premises as a party respondents to the case. Relevant para 20 of the judgment in the case of ***Suresh Kumar Kohli (supra)*** reads as under:-

“20. We are of the view that in the light of *H.C. Pandey (supra)*, the situation is very clear that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenant is occupation of all the joint tenants. It is not necessary for landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons who are occupying the property, as party. There may be a case where landlord is not aware

of all the legal heirs of the deceased tenant and impleading only those heirs who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of the joint tenant is sufficient against all the joint tenants and all joint tenants are bound by the order of the Rent Controller as joint tenancy is one tenancy and is not a tenancy split into different legal heirs. Thus, the plea of the tenants on this count must fail.”

3. In view of the aforesaid discussion, this Reference is answered in terms of para 20 of the judgment of the Supreme Court in the case of ***Suresh Kumar Kohli (supra)*** that on the death of the statutory tenant, the legal heirs inherit the tenancy as joint tenants and it is not necessary for the landlord to implead all the legal heirs of the deceased tenant with the fact that it is sufficient for the landlord to implead those persons who are occupying the tenanted property.

4. This Original Reference is accordingly disposed of. Copy of this order be sent to the concerned reference court.

VALMIKI J. MEHTA, J

SEPTEMBER 24, 2018

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