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

+ CM(M) 288/2018 & CM Nos.9452-9454/2018

RAJIV PURI

..... Petitioner

Through: Ms. Sonali Malhotra with Mr. Amit
Sanduja, Advocates.

versus

JAGDISH KUMAR (DECEASED) THR LRS & ORS.... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **12.03.2018**

1. In a petition for eviction on the ground under Section 14(1)(e) Delhi Rent Control Act, 1958 instituted on 21.12.2012, the application of the petitioner under Section 25B Delhi Rent Control Act, 1958 has still not come up for consideration and adjudication. It appears from the submissions and the documents filed in this petition that applications other than the said leave to defend application have been the subject matter of attention of the trial court and the parties. It appears earlier some application had been moved seeking discovery of certain facts, the said application invoking Order XI CPC having been disposed of, the counsel appearing for the petitioner not being aware as to what was the result of such application.

2. Be that as it may, she also submitted, on being asked, that there is an application under Order VI Rule 17 CPC seeking bringing on record additional subsequent facts, which the petitioner craves leave of the Rent Controller to be considered at the time of adjudication on the pending application for leave to defend.

3. The present petition has been taken out to bring a challenge to the order dated 01.02.2018 whereby the application of the petitioner for rejection of the eviction petition under Order VII Rule 11 CPC was dismissed.

4. After some hearing, the learned counsel for the petitioner submitted that she may be allowed to withdraw the present petition and the applications filed therewith and be given liberty to raise the issues on the basis of which the petitioner pleads there is no cause of action in favour of the respondents, such ground, in her submission meriting dismissal of the eviction petition at the threshold, to be agitated alongside the pending applications under Order VI Rule 17 CPC and for leave to contest under Section 25B of Delhi Rent Control Act, 1958.

5. The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed granted. It is clarified that the learned Rent Controller will be expected to pass an appropriate order on the pending application for leave to contest and also on the application under Order VI Rule 17 CPC, permitting the petitioner to agitate the contentions which were urged in the application under Order VI Rule 17 CPC also at the same time. The Rent Controller, needless to add, will consider such submissions not feeling bound by the view taken in the impugned order.

6. Copy of the order be given *dasti*.

R.K.GAUBA, J

MARCH 12, 2018//srb