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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 226/2016, CM APPL.15298/2016**
SATPAL

..... Petitioner
Through : Mr.S.K.Balyan, Advocate with
petitioner in person.

versus

SURENDER KUMAR

..... Respondent
Through : Mr.C.S.Bhandari, Advocate.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **27.11.2018**

This petition challenges the judgment dated 30.01.2016 passed by the learned Trial Court whereby the petition under Section 14 (1) (e) of the Delhi Rent Control Act, 1958 (for short 'DRC Act') of the respondent was allowed by rejecting the leave to defend application filed by the petitioner herein.

The case of the respondent is he is the landlord / owner of the shop in question which was let out to the petitioner herein in the year 1981 by his predecessor. There exists previous litigation between the parties which is not relevant for the disposal of instant petition.

The petitioner raised two grounds before the learned Trial Court; a) there are three shops in the premises and the site plan filed by the landlord/respondent is incorrect – whereas the learned counsel for the respondent says there are only two shops and has also pointed out to the site plan which was annexed to the eviction petition. The

site plan filed by respondent do show there are only two shops in the property belonging to the respondent herein. Admittedly, the petitioner has not filed any separate site plan to counter the site plan of the respondent herein, hence this plea of petitioners was rightly rejected.

Another argument raised by the learned counsel for the petitioner is one shop in the premises is lying vacant which is in the possession of the respondent. The site plan do show the alleged third shop is infact not a shop, rather it is a store room which is being used to store the material/belongings of the family of the respondent consisting of respondent, his spouse, one son and one daughter (both are major). Even otherwise such store is in a gali and not on the main road hence cannot be used as a shop.

After some further arguments, the learned counsel for the petitioner, after getting instructions from petitioner, stated the petitioner shall be satisfied in case he is given one year time from today to vacate the shop in question. The learned counsel for the respondent also agrees to the same, subject to payment of user charges as per market rent w.e.f. today.

Considering the submissions of both the learned counsels, it is directed the petitioner shall vacate the shop in question on or before 26.11.2019 and shall make the payment of user charges @ Rs.4,000/- per month from today till the time he holds the possession of shop in question by 7th of each month. The respondent shall not claim any arrears from the date of eviction order till today.

The petitioner is directed to file an undertaking/affidavit qua vacation of premises by 26.11.2019 and for payment of user charges aforesaid, within a week from today with an advance copy thereof to the learned counsel for the respondent.

In view of above, the petition stands disposed of. The pending application also stands disposed of.

YOGESH KHANNA, J.

NOVEMBER 27, 2018

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