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

Decided on: 17th January, 2018

+ RC.REV. 204/2016 and CM APPL.25555/2016

RAN SINGH

..... Petitioner

Through: Mr. J.P.Sengh, Senior Advocate with
Mr. Lalit Choudhary,
Ms. Mehak Kalra, Ms. Manisa Mehta,
Ms. Vaishali Tanwar, &
Ms. Mrigna Shekhar, Advocates

versus

LILU RAM (DECEASED) THR LRS.

..... Respondents

Through: Mr. Devinder Singh Khatana, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is in occupation of premises described as shop in property bearing No.B-20, Gali No.1, Shera Mohalla, Garhi, East of Kailash, New Delhi. Concededly, he was inducted as a tenant by Lilu Ram, who has since died, his estate now being represented by the respondents. Lilu Ram, during his life time, had instituted a case (EV No.6A/2014) seeking order of eviction against the petitioner on the ground of *bona fide* need invoking the provision contained in Section 14 (1) (e) of the Delhi Rent Control Act, 1958. Admittedly, the petitioner was served with the summons on 01.03.2014. It is not in dispute that he entered appearance through counsel in the court of

Additional Rent Controller (ARC) on 20.03.2014. No leave to defend application was filed within the statutory period. It is against the said backdrop that by the impugned order dated 20.03.2014 that the ARC passed the eviction order.

2. The petitioner, by the present revision petition, seeks to point out that he was mislead and misdirected by Lilu Ram (since deceased) who had executed a document described as *Vachan Patra* (translated by the petitioner as “an undertaking”) on 02.03.2014, just one day after the petitioner had been served with the summons under Section 25-B of the Delhi Rent Control Act, 1958, undertaking to withdraw the eviction case from the court and also to execute all documents to transfer the title of the subject property in terms of mutual agreement. It is the case of the petitioner that earlier Lilu Ram had entered into an arrangement in the nature of memorandum of understanding (MOU) (page 78 of the paper book) whereby he had agreed to transfer the subject property for consideration in his favour. A copy of the said document would reflect payment of Rs.1,00,000/- which the petitioner claims was towards the sale consideration. The respondent undoubtedly disputes genuineness of such documents or background facts as have been pleaded. But, it cannot be ignored that the petitioner has instituted a suit for specific performance based on the said very documents, of course, post the eviction order seeking relief thereupon.

3. In the above peculiar facts and circumstances, this court is of the opinion that the case does throw up triable issues, which cannot be ignored or trivialized. The *bona fide* of the original petitioner is under

cloud as the document in question, if executed, was indicative of different intent and if not meant to be followed up amounted to misdirecting the petitioner herein. The impugned order is, thus, set aside.

4. The petitioner herein is granted leave to defend. For such purposes, he is called upon to file written statement, which he must do within thirty days hereof. The case thereafter will proceed in accordance with law.

5. The parties are directed to appear before the Additional Rent Controller for above purposes on 1st February, 2018.

6. The petition and the application filed therewith are disposed of in above terms.

JANUARY 17, 2018

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R.K.GAUBA, J.