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

+ CM(M) 517/2018 and CM Nos. 18182-18184/2018

ZUBAIR AHMED & ORS

..... Petitioners

Through: Mr. Siddharth Aggarwal, Adv.

versus

ATIF MASOOD & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **04.05.2018**

The petitioners are the respondents in the eviction case (E-699/14/11 - new No. 79104/16) which was instituted by the respondents on 07.07.2011 for an order of eviction under Section 14 (1) (e) of Delhi Rent Control Act, 1958. Having regard to the nature of the ground on which eviction is sought, the special procedure envisaged in Section 25-B of the Delhi Rent Control Act, 1958, has been invoked. The petitioners, upon being served, had submitted an application seeking leave to contest on 30.09.2011 which is still pending consideration. It appears that the predecessor-in-interest of the petitioners who was shown in the array as the respondent initially died and on this account, the proceedings were held up, the petitioners herein having since been substituted in his place.

Be that as it may, the petitioners had moved an application

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seeking to bring on record what they described as subsequent events, to be specific the factum of eviction of three shops bearing Nos. 1640/1, 1640/2 and 1641 Bazar Lal Kuan, Delhi-6, reference to which premises, then in the occupancy of different tenants, had been made in the eviction petition. The respondents contested the said application by contending that no subsequent events in the nature of the eviction of the said shops had occurred. This plea has been upheld by the additional rent controller who thus, dismissed the application by order dated 20.01.2018 while adjourning the matter for consideration of application for leave to contest.

It is pointed out by the counsel for the petitioners that in the rejoinder to the reply of the respondents to the afore-mentioned application, it had been specifically pleaded that the vacation of the said three shops took place in November, 2013 in the course of proceedings arising out of the civil suit – CS (OS) 3533/2012 which had been later instituted on the original side of this Court and which was transferred to the district Court on account of change of pecuniary jurisdiction. The impugned order does not note these contentions with reference to the proceedings which appear to be subsequent to not only the filing of the eviction petition but also the submission of the application for leave to contest.

The counsel for the petitioners at this stage conceded that reference to the averments in the rejoinder has escaped the attention of the trial court. He submits that he may be allowed to withdraw the present petition and the applications filed therewith and instead be

given liberty to approach the additional rent controller for a review in light of above mentioned facts as have been omitted from consideration.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed for granted.

Dasti under the signatures of Court Master.

R.K.GAUBA, J.

MAY 04, 2018/uj