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

+ CM(M) 506/2018

ACHHEY LAL

..... Petitioner

Through: Mr. Abhishek Singh, Adv.

versus

HARI RAM

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **02.05.2018**

CM No. 17877/2018 (Exemption)

Allowed subject to all just exceptions.

CM(M) 506/2018 and CM No. 17876/2018 (stay)

The petition at hand seeks to challenge the order dated 17.08.2017 of the Rent Control Tribunal whereby the appeal (RCT No. 30353/2016) of the appellant (concededly, the tenant) against the order dated 29.02.2016 of the additional rent controller was dismissed as time-barred. The order which was sought to be assailed in the appeal before the rent control tribunal had been passed in the proceedings arising out of the case (E-208/2015) taken out by the respondent (concededly, the landlord) on the ground under Section 14 (1) (a) of the Delhi Rent Control Act, 1958. By the said order dated 29.02.2016, the additional rent controller noted the admitted rate of rent to be at Rs.200/- per month. The petitioner has been burdened with the liberty to pay to the landlord the arrears of the rent at the said rate with effect from 01.09.2008 by money orders/deposits or by

cheques/cash within one month of the said order.

It has been the grievance of the petitioner/tenant that in the earlier case filed by the third party (Ram Verma) claiming to be the landlord, he was made to pay the rent and further that he had accordingly made certain payments to the said Ram Verma or deposited the same in the Court of additional rent controller. It is noted that in the order dated 29.02.2016, reference is made to certain deposits under Section 27 of the Delhi Rent Control Act, 1958.

The learned counsel for the petitioner explains that the above was on erroneous assumption that the deposits were made under Section 27 of the Delhi Rent Control Act, 1958, and that the deposits of which adjustment is sought were actually made in terms of the order under Section 15 (1) of the Delhi Rent Control Act, 1958 in the course of proceedings in case of the said Ram Verma.

It is, however, noted that at the time of consideration of the prayer for order under Section 15 (1), the petitioner was unable to show any documents evidencing such deposits as are referred to above.

Be that it may, another grievance of the petitioner is that he has been burdened with the liability to pay to the respondent arrears of rent beyond the period for which the same would be legally recoverable, the petition for eviction having been filed in July, 2015. After some hearing, the learned counsel for the petitioner submitted that he may be allowed to withdraw the present petition and the applications filed therewith and instead approach the additional

rent controller to seek a review of the order dated 29.02.2016 restricted to the ground of it requiring payment of arrears of rent beyond the period for which it is legally recoverable, he clarifying that at this stage of the proceedings, the adjustment of the amount paid or deposited in the context of proceedings in the eviction case brought by Ram Verma will not be sought and instead the right to claim such adjustment will be agitated at the time of final adjudication only.

The petition and the applications filed therewith are dismissed as withdrawn with liberty to seek review limited to the above aspect as prayed granted.

R.K.GAUBA, J.

MAY 02, 2018/uj

CM(M) 506/2018

page 3 of 3