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

+ C.R.P. 118/2018 and CM APPL.24040-24041/2018

LALITA

..... Petitioner

Through: Mr. Jawahar Chawla, Advocate with
Ms. Shalu Chawla, Advocate

versus

BALBIR SINGH KOHLI (DECEASED) THR LRS & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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31.05.2018

The eviction case (ARC No.25272/2016) in which the order dated 11.04.2018 has been passed by the additional rent controller dismissing the application under Order VIII Rule 1(A)(3) read with Section 151 of the Code of Civil Procedure, 1908 (CPC) of the petitioner was instituted by the predecessor-in-interest of the respondent, she being the landlady. In the said case, the late husband of the petitioner herein was shown in the fray as the respondent, he concededly being the tenant in respect of the subject premises. It is clear from the pleadings and the submissions made that the eviction case on various grounds under Section 14(a)(b)(c)(j) and (k) of the Delhi Rent Control Act, 1958 was contested by the petitioner's husband by written statement submitted in March, 2007. The petitioner's husband died on 6th July, 2007, whereafter the petitioner along with other legal heirs was substituted in his place, they having continued to contest. The pleadings in the petition themselves reveal that the evidence of both sides stood

concluded and the case had ripened for final arguments to be heard, as per proceedings recorded on 16.03.2010. On application moved by the opposite party, *i.e.* the petitioner in the eviction case, the opportunity for evidence for that side was re-opened. Eventually, the evidence on that side stood concluded on 18.08.2017 whereafter the case was adjourned for evidence of the petitioner herein to be adduced on 18.10.2017. It appears that no evidence was led on that date. The matter was adjourned to 14.11.2017, on which date the evidence in affidavit was filed.

The case was still at the stage of evidence of the petitioner on 01.12.2017 when the application under Order VIII Rule 1 (A) (3) read with Section 151 CPC was moved followed by another application under Section 151 CPC presented on 05.03.2018 for renewed opportunity for cross-examination of the opposite parties witnesses. On 05.03.2018, the petitioner claims to have moved yet another application under Section 151 CPC seeking permission to deposit rent in terms of her pending application dated 18.03.2008. There is no cogent explanation even offered in the petition as to why the said application which was moved in 2008 was not prosecuted by the petitioner for almost nine years.

Be that as it may, by the impugned order dated 11.04.2018, the additional rent controller dismissed the application whereby the petitioner wanted to bring on record additional documents.

Having heard the counsel for the petitioner and having gone through the record, this court finds no error or infirmity in the view taken by the court below. In the application under Order VIII Rule 1 (A) (3) read with Section 151 CPC, there is no clear explanation as to why these documents

were not placed on record at the very inception on or about the filing of the written statement. It vaguely states that “*certain documents had remained in the custody, power and possession of her deceased husband*” and some documents “*with the previous counsel*”. It is clear from the chronology noted above that the petitioner’s husband had died in July, 2007 almost immediately after filing the written statement. It could not conceivably be said that the documents would have remained in the custody, power and possession of her deceased husband after his death. There is no explanation offered as to who the previous counsel was and which of the documents had remained in his possession and which were not filed on record for what reasons. The application was accompanied by a list of documents which are twenty-five in number. As many as twenty-one of those documents relate to the period prior to the filing of the written statement and, therefore, it cannot be argued, as submitted by the counsel for the petitioner, that they relate to subsequent events. The rest of the documents pertain to the period 20.12.2007 to 21.04.2012. Again, there is no explanation why there were not shared with the court earlier. The application for bringing on record such additional material is deficient also for the reason it does not even remotely spell out the relevancy of these documents.

The petition and the applications filed therewith are thus, found to be devoid of substance. They are dismissed with costs of Rs.10,000/-, to be deposited with Delhi High Court Legal Services Committee within a week.

MAY 31, 2018/vk
C.R.P. 118/2018

R.K.GAUBA, J.

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