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

+ CM(M) 798/2018, CM APPL. 28100-28102/2018

OM PRAKASH Petitioner

Through: Mr. KG Seth, Adv.

versus

MAN SINGH Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.07.2018

CM APPL. 28101/2018(Exemption)

This is an application filed on behalf of the petitioner seeking exemption from filing certified copies of annexures. Exemption allowed, subject to just exceptions.

CM APPL. 28102/2018(Exemption)

This is an application filed on behalf of the petitioner seeking exemption from filing Trial Court Record. Exemption allowed, subject to just exceptions

CM(M) 798/2018 & CM APPL. 28100 /2018

Initial submissions have been made on behalf of the appellant.

Vide the present appeal, the appellant assails the impugned order dated 18.04.2018 of the District & Sessions Judge (South) i.e. the RCT (South) vide which the appeals i.e. CIS-RCT-13-2018, CIS-RCT-16-2018, CIS-RCT-17-2018, CIS-RCT-19-2018, CIS-RCT-15-

CM(M) 798/2018

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2018 and CIS-RCT-14/2018 against the order dated 21.02.2018 of the ARC/ACJ/CCJ, South in Eviction Petition no.151/17 were declined.

Vide the order dated 21.02.2018, an application under Order 39 Rule 1 & 2 of the CPC filed by the present appellant as respondent to the eviction petition seeking a restraint against the petitioner i.e. the respondent to the present appeal against forcible dispossession of the premises qua which the eviction petition had been filed, was declined it having observed to the effect that the very factum of institution of eviction petition was an indication that the petitioner of the said eviction petition had taken legal course to obtain the possession of the suit property and thus there existed no apprehension whatsoever of any dispossession without due process of law. Vide the order dated 18.04.2018 of the District & Sessions Judge, South i.e. the RCT (South) upheld the said observations and dismissed the appeals filed against the said order.

Significantly, it has been sought to be submitted during the course of submissions that have been made on behalf of the appellant that the petitioner of the eviction petition before the learned ARC i.e. the respondent to the present petition is not the owner of the premises in question qua which the eviction petition had been filed and that the petitioner of the present appeal is in adverse possession and that furthermore, there are no rent deeds that have also been executed between the petitioner who had filed eviction petition and the present petitioner i.e. the respondent to the eviction petition before the learned ARC. The said aspect would apparently essentially be taken up for

consideration during the course of proceedings before the learned ARC. Significantly, the prayer made by the petitioner through the present petition is to the effect that the impugned order of the District & Sessions Judge, South i.e. the RCT (South) and the order dated 21.02.2018 of the ARC (South) be set aside and the respondent to the present petition i.e. the petitioner of the eviction petition be restrained from wrongfully asking for the eviction from the suit premises because he has no legal ownership document.

As already observed hereinabove, the aspect as to whether or not the petitioner to the eviction petition has any legal right to seek remedy of eviction against the respondent to the eviction petition i.e. the present petitioner is subjudice before the learned ARC as the proceedings are pending and being conducted. The prayer made by the petitioner herein seeking a restraint against the petitioner of the eviction petition to seek legal remedy cannot be granted at all.

The petition is declined.

ANU MALHOTRA, J

JULY 18, 2018

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