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

+ CM(M) 1294/2018

SUSHIL KUMAR SHARMA ..... Petitioner  
Through: Mr. Vinay Rathi, Advocate.

versus

SUSHMA JAIN & ORS ..... Respondents  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE VINOD GOEL**

**ORDER**  
% **26.10.2018**

**CM No.44627/2018 & 44629/2018 (exemptions)**

1. Allowed subject to all just exceptions.
2. The applications are disposed of.

**CM No.44630/2018 (delay in re-filing)**

3. For the reason mentioned in the application, the delay in re-filing the petition is condoned.
4. The application stands disposed of.

**CM(M) 1294/2018 & CM No.44628/2018 (stay)**

5. In this petition filed under Article 227 of the Constitution of India, the order dated 23.05.2018, passed by the learned Additional Rent Controller (ARC) dismissing his application for review of the order dated 22.04.2016, has been assailed by the petitioner.

6. The respondents No.1 to 4 have filed an application under Section 14 (1) (e) read with Section 25B of Delhi Rent Control Act before the Rent Controller (RC) against respondent No.5, who is the brother of the petitioner. The petitioner filed an application under Order 1 Rule 10 CPC before the RC to implead him as respondent on the ground that the respondent No.5 is his brother and the property in question was in occupation of his father late Sh. Nathu Ram Sharma, who died on 05.01.1974 leaving behind him and his brother Sudhir Kumar Sharma as his legal heirs. It was also pleaded that the petitioner has been paying the rent regularly to the respondents No.1 to 4 and making the payment of electricity charges and the electricity connection had also been installed in his name.

7. The respondents No.1 to 4 contested the application on the ground that the premises in question was rented out to the respondent No.5 in the year 1973 with the consent of their father Sh. Nathu Ram Sharma and other family members and the premises in question has been in occupation of respondent No.5.

8. After perusing the record, the learned ARC found that the respondents No.1 to 4 have filed the counterfoils of the rent receipts issued in the name of respondent No.5 for the years 1976-1977 whereas the petitioner failed to file even a single document to show his occupation in the premises in question. In the circumstances, the application was dismissed by the learned ARC on 22.04.2016.

9. The petitioner assailed the order dated 22.04.2016 before the Rent

Control Tribunal (RCT) and his appeal was dismissed on 02.08.2016. Thereafter, the review application was preferred by the petitioner in the month of August, 2017 and the learned ARC finding no merit dismissed the application.

10. When the appeal against the order dated 22.04.2016 was dismissed on 02.08.2016 by the RCT, review petition itself was not maintainable before the learned ARC.

11. In view of the above, there is no merit in the petition. The petition, along with CM No.44628/2018, is hereby dismissed.

**OCTOBER 26, 2018**  
*"sandeep"*

**VINOD GOEL, J.**