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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 877/2018 & CM APPL. 30893-30894/2018**
ANIL KUMAR JAIN & ORS Petitioner
Through: Mr. A. Maitri, Adv.

versus

SHANTA BERI Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **03.08.2018**
CM APPL. 30894/2018 (Exemption)

Exemption allowed, subject to just exceptions.

CM(M) 877/2018 & CM APPL. 30893/2018

Vide the present petition, the petitioner assails the impugned order dated 23.07.2018 of the RCT, South-East in ARCT No.21/17 whereby it has been observed to the effect that:

“Present: Shri A. Maître, counsel for appellant.

Shri NP Singh, counsel for respondent.

Final arguments partly heard and are deferred at request of learned counsel for appellant who needs to inspect pleadings to find out if there are specific pleadings and evidence in support of his contention that after death of Smt. Chanderkala, fresh tenancy was created between the present respondent and the present appellants, whereby the present appellants were inducted as tenants in common. According to the appellants, they are not joint tenants so on account of alleged acquisition of property by two of the appellant, eviction order against all three could not be

passed.

List for further arguments on 18.09.2019.”

It has been submitted on behalf of the petitioner that the said RCT No.21/17 filed by the petitioner is against the order dated 24.10.2017 of the learned Senior Civil Judge-cum- Rent Controller, South-East in Eviction Petition No.5064/2016, whereby the said Eviction Petition had been allowed. It has been submitted on behalf of the petitioner that after institution of the appeal RCT No.21/2017 before the District & Sessions Judge, South-East, there have been repeated submissions made on behalf of the respondents to the said appeal i.e. the petitioner of the Eviction Petition on 14.12.2017, 14.03.2017 and 25.05.2018 that they would not seek the execution of the order of the eviction as passed by the learned Rent Controller, South-East. It has further been submitted on behalf of the petitioner that such an observation in relation to non-execution of the eviction order and restraint in relation thereto is not depicted in the order dated 23.07.2018 of the learned RCT, South-East i.e. the District & Sessions Judge, South-East.

Nothing prevents the petitioner from making such prayer before the learned RCT, South-East. Learned counsel for the petitioner thus seeks to withdraw the present petition seeking liberty to seek redressal in relation to the said submissions and the prayer to be made seeking the submission from the respondent to the effect that there would be no execution of the eviction order sought during the pendency of the proceedings in RCT No.21/2017. In view of the said submission, the

petition is so dismissed as withdrawn with liberty granted, as prayed.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

AUGUST 03, 2018

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