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

***Decided on: 23<sup>rd</sup> March, 2018***

+ C.R.P. 19/2013 and CM APPL.1256/2013, 15798/2017

SWAPAN KUMAR MANDAL ..... Petitioner

Through: Mr. S.N. Sinha, Advocate

versus

DHOLA DEVI @ DHAWALA DEVI ..... Respondents

Through: Mr. Sandeep Verma, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. The present revision petition was filed questioning the correctness, legality and propriety of the order dated 02.07.2012 passed by the additional rent controller (ARC) on the file of eviction case (17/2011) of the respondent (concededly, the landlady) instituted on 09.08.2011 seeking an order against the petitioner (concededly, the tenant) under Section 14-D of the Delhi Rent Control Act, 1958 on the ground of her *bona fide* need for accommodating her daughter Anju and her family, she requiring their presence around her in her old age, she also being a widow. The petitioner had submitted an application for leave to contest under Section 25-B of the Delhi Rent Control Act, 1958, which was dismissed by the ARC and resultantly the eviction order was passed on 02.07.2012.

2. One of the prime contentions urged by the petitioner in his application for leave to contest was that the respondent-landlady does not have any child of her own and that the facts concerning her daughter Anju have been fabricated. The learned ARC, however, was not impressed with these submissions on the basis of available material indicating the said person named Anju to be an adopted daughter of the respondent and her late husband Ram Karan.

3. But, another contention which was urged by the petitioner was that the landlady has available to her sufficient accommodation, she having not disclosed that there are eighteen other tenants in various portions of the property in question.

4. It is, however, also submitted that during the pendency of the petition at hand three other rooms had become available to the landlady, the respective tenants having vacated such portions. By application (CM APPL.15798/2017), the petitioner has placed on record a site plan showing a large number of rooms at the ground floor and first floor of the property, each either in the tenancy of different persons or some being vacant and available to the respondent-landlady, it also being the submission of the petitioner that some of the portions which were vacated by the tenants during the interregnum have been re-let. Though contesting the contention of the petitioner about the respondent having re-let certain portions after the other tenants had vacated the other rooms in the same property, it was conceded on her behalf at the hearing that atleast three rooms other

than the one in the tenancy of the petitioner have fallen vacant and are available.

5. It is noted that in the site plan filed in support of the eviction petition, the respondent-landlady had not shown the entire structure or the other accommodation available in the property of which the tenanted portion is only a part, not the least showing the respective use of various portions. Similar appears to be the deficiency in the pleadings in the eviction petition.

6. In the above facts and circumstances, a case had been made out by the petitioner before the rent controller for leave to be granted permitting him to contest the case for eviction on merits.

7. Thus, the impugned order is set aside. The leave to contest is granted to the petitioner. The proceedings arising out of eviction case of the respondent-landlady are revived on the file of ARC, who is directed to take it up for further proceedings on 25<sup>th</sup> April, 2018. The parties are directed to appear before the ARC on the said date. Since leave has been granted, the petitioner will be obliged to submit his written statement, which he must do on the date fixed for first appearance as above.

8. The petition and the applications filed therewith stand disposed of in above terms.

9. *Dasti.*

**R.K.GAUBA, J.**

**MARCH 23, 2018/vk**