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

+ RC.REV. 552/2016 and CM APPL.43464/2016, 20148/2017,
Crl.M.(B) 999/2017

GOVIND

..... Petitioner

Through: Mr. Shiv Kumar Sharma, Advocate
with Mr. Ashok Jain, Adv.

versus

MAHESH CHANDER & ANR

..... Respondents

Through: Ms. Smarika Azad, Advocate with
Mr. Akhil Gandhi, Adv. & Mr. Lalit
Sharma, Adv. for R-1.
Mr. Amit Swami, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **18.04.2018**

The revision petition at hand has been filed by a party which was described as sub-tenant in the eviction case (New E. No.5396/2016, old No.1/2011) which was instituted by the first respondent on the ground of *bona fide* need of the tenanted premises under Section 14(1)(e) of the Delhi Rent Control Act, 1958, the second respondent herein having been impleaded as the first respondent in the said eviction case, he having been described as the tenant. The eviction case was put to trial and resulted in judgment dated 29.07.2016 being passed granting an order of eviction in

favour of the first respondent herein. The said order of eviction is challenged by the petition at hand.

It has been brought to light that the first respondent (Mahesh Chander) had died on 22nd July, 2016 prior to the judgment being rendered by the rent controller.

The fact that the death had occurred prior to the judgment being passed renders the judgment a nullity, it having been passed in favour of a person who was no more. there admittedly being no steps taken in terms of Order XXII of the Code of Civil Procedure, 1908 (CPC).

When the matter was taken up, the counsel for the second respondent tried to justify the lack of action on the part of first respondent. It was pointed out by the counsel for the petitioner that both the respondents have been colluding with each other in securing the order of eviction.

The conduct of the counsel representing the second respondent has been noted for the record. This court refrains from making any further observations at this stage against him.

In view of the fact-situation noted above, however, the impugned order cannot be upheld and is bound to be set aside.

Ordered accordingly.

But the directions for setting aside the impugned order cannot bring curtain on the eviction case of the first respondent. It will have to be revived and remanded back to the additional rent controller so that appropriate further proceedings may take place. It is so directed.

The parties shall appear before the additional rent controller on 15th May, 2018.

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

Dasti.

R.K.GAUBA, J.

APRIL 18, 2018

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