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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 17th May, 2018

+ RC.REV. 321/2017

MOHD NADEEM KHAN & ORS Petitioners

Through: Mr. S.D. Ansari and Mr. I.
Ahmed, Advocates

versus

UMA MAHESHWARI Respondent

Through: Mr. Pawan Kumar Jain and Mr.
Deepak, Advocates

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioners had instituted a case (RC/ARC No. 385/2016) before the Additional Rent Controller on 04.12.2012 seeking an order of eviction on the ground of bonafide need under Section 14(1)(e) of Delhi Rent Control Act, 1958 against the respondent who concededly is a tenant in the demised premises described as one shop at ground floor bearing private no.5, forming part of property no.A-135, Main Vikas Marg, Shakarpur, Delhi-110 092. Upon being served with the summons under Section 25-B of Delhi Rent Control Act, 1958, the respondent had filed an application for leave to contest. Before the said application could be considered, the first petitioner Noor Jahan Begum died. Her legal heirs were brought on record and, thereafter, the matter came up for adjudication on the application for leave to

contest before the Rent Controller. By order dated 20.03.2017, the Rent Controller found the eviction petition itself to be not maintainable and thus proceeded to dismiss it. It is the said order which is under challenge by the present petition.

2. It appears the petitioners claim to have purchased the property in question from the previous owner on the basis of certain documents that include an agreement to sell. The respondent had sought to contest the petition denying the claim of the petitioners to be the owner of the premises stating that the owner-cum-landlord qua her was Het Ram, one G.L. Chopra being his attorney. The Rent Controller has accepted this plea of the respondent without giving any opportunity to the petitioner to prove their claim to the ownership. Further, in the eviction petition, there is an averment to the effect that the second and third petitioners were not maintaining cordial relations for which they “*want*” to work separately. The Rent Controller has construed from this averment that it is a case of “*want*” and consequently not a case of “*bonafide requirement*”.

3. The reasoning set out in the impugned order, to say the least, is most unfair and unjust. The Rent Controller ought not to have drawn conclusions picking up stray words or sentences from the averments. The pleadings had to be read and construed in entirety.

4. The impugned order, therefore, cannot be upheld. It is set aside. The eviction case before the Additional Rent Controller stands revived. It shall be taken up for further proceedings in accordance with law, beginning with consideration of the application of the

respondent for leave to contest, on 10.07.2018. The parties shall appear accordingly.

5. *Dasti* under the signatures of the Court Master.

R.K.GAUBA, J.

MAY 17, 2018

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