

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on : 1st October, 2018

Date of decision: 4th October, 2018.

R.C. REV. 472/2018

SMT. KRISHNA GUPTA

..... Appellant

Through: Mr. Raj Kumar, Adv.

versus

VIPIN KUMAR & ANR.

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. Vide the present petition, the petitioner assails the impugned order dated 09.03.2018 of the Court of the learned CCJ-cum-ARC-1 (Central), (Pilot Court), Tis Hazari Courts, New Delhi in Eviction Petition No.673/2017/CIS 785/2017 whereby the eviction petition filed by the respondent nos. 1 & 2 to the present R.C. Rev. 472/2018 seeking eviction of the petitioner herein from the tenanted premises i.e. one hall admeasuring 14'8" x 9'0" and one room admeasuring 7'5" x 10'0" and passage admeasuring 3'6" (width) on the ground floor, House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005, more specifically shown in red colour in the site plan annexed along with the petition on the ground of bona fide requirement under Section 14 (1)(e) of the Delhi Rent Control Act,

1958 as amended, was allowed, with it having been directed that the said order would not be executed for a period of six months from the date of the impugned order i.e. 09.03.2018 in terms of Section 14 (7) of the enactment.

2. Vide order dated 28.09.2018, the matter was directed to be renotified for the date 01.10.2018 inasmuch as no affidavit had been filed on the record by the petitioner to show that the bailiff had been appointed to take possession of the property. The petitioner thus on 29.09.2018 submitted her affidavit to the effect that vide order dated 19.09.2018 the bailiff had been appointed for taking possession of the property in question and the status report in compliance of the execution of the warrant is to be filed.

3. The respondents to the present petition are indicated to be the residents of one small room admeasuring 7'10"x 8'10" with kitchen on the first floor of the tenanted premises. The respondents claimed through their eviction petition that they were the sole and absolute owner/landlord of the tenanted premises let out to the petitioner herein about 20 years prior to institution of the eviction petition instituted on 29.08.2017, which tenanted premises was let out by the grand-father of the respondents i.e. Mr. Than Singh and had been let out for commercial purposes. The respondents herein through their eviction petition claimed that the tenanted premises were let out for commercial purposes at the rate of rent of Rs.200/- p.m. excluding other charges which had been revised from time to time with the rate

of rent being Rs.1,000/- p.m. on the date when the eviction petition had been filed.

4. The respondents to the present petition had further claimed through their eviction petition that after the demise of their grandfather, their father Shri Om Prakash became the owner of the tenanted premises and that after their father's demise on 03.03.2009, the respondents herein i.e. the petitioners of the eviction petition became the owner of the tenanted premises and always issued the rent receipt against the rent tendered by the respondent to the eviction petition i.e. the petitioner herein and the counter foil of the same was also signed by the sons of the respondent to the eviction petition i.e. the petitioner herein.

5. The respondents to the present petition also claimed through the eviction petition that their great grand-father late Shri Shiv Narain had been allotted the House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005 about 80 years ago and had constructed the property from his own funds and he also used to tender the house tax to the competent authority and used to keep tenants and issued rent receipts and that now thus the petitioners of the eviction petition arrayed as respondents to the present petition were owners/landlords of the tenanted premises as well as the premises on the first floor above the tenanted premises.

6. The petitioners of the eviction petition also submitted that they are working and earning their livelihood and have their widowed mother to support and they are both approaching marriageable age

inasmuch as the petitioner no.1 of the eviction petition was about 21 years of age and petitioner no.2 of the eviction petition was about 20 years of age and required accommodation in support of their one small room and that furthermore, the property bearing House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005 in which the tenanted premises is situated is under the joint ownership of the legal heirs of late Shri Than Singh and Shri Rameshwar Dayal and that the tenanted shop premises along with one small room with kitchen falls under the occupation of the petitioners of the eviction petition.

7. The petitioners of the eviction petition also claimed that the petitioner no.2 of the said petition i.e. Shri Sachin Kumar arrayed as respondent no.2 to the present petition also gives tuition to school children in his part time and that he has to give home tuitions because of lack of accommodation and that the hall situated on the ground floor that is the part of the tenanted premises is sufficient to open a tuition centre and that thus there is a bona fide requirement of the same and that the two petitioners of the eviction petition i.e. the respondents to the present petition also require a self study room as both of them are at the formative stage of their lives and need concentration and a viable atmosphere to pursue their career and that the hall of the ground floor can serve the twin purpose of imparting education and also self study and is most suitable to the petitioners of the eviction petition.

8. *Inter alia* the petitioners of the eviction petition claimed that they required one room for guests and relatives visiting their house and it becomes very difficult and embarrassing for them to accommodate all of them in a single room and that thus there is a bona fide requirement of a guest room as well.

9. *Inter alia* the petitioners of the eviction petition submitted that they had no suitable alternative accommodation available with them except the tenanted shop/premises.

10. The respondent to the eviction petition i.e. the present petitioner through his leave to defend and as submitted before this Court has contended that the petitioners of the eviction petition had failed to file any title documents/ownership pertaining to the suit property which was a mandatory requirement and that the house tax assessment dated 24.03.1975 and dated 21.03.2011 itself indicate that the owner/landlord of the premises in question was late Shri Shiv Narain and that the entire property where the suit property is situated had been let out by the DDA to one Shri Manak Chand on the basis of a lease for a period of 99 years as per the record of the DDA and that the respondents to the present petition i.e. the petitioners of the eviction petition were neither the lessees nor the owners of the suit property and that their status in the same was only of that of occupants and that they had no bona fide requirement of the tenanted premises in question.

11. *Inter alia* it was contended through the leave to defend by the respondents to the eviction petition as petitioners before this Court

that what the petitioners of the eviction petition actually sought to invoke was in fact a mere desire to have the tenanted premises vacated from the tenant and had no actual need for the same.

12. It was also sought to be contended by the respondent to the eviction petition i.e. the petitioner herein that there has been deliberate concealment of material facts also by the petitioners of the eviction petition.

13. The petitioners of the eviction petition through their reply to the leave to defend reiterated the averments made in the eviction petition. As detailed in para 5 in the present petition, no rejoinder was filed by the petitioners herein to the reply to the leave to defend.

14. The petitioner of the eviction petition also denied that the suit property had been let out by the DDA to one Shri Manak Chand for a period of 99 years.

15. Through the present petition it was sought to be contended by the petitioner herein that the following issues of law arose in the instant petition:

- i. *Whether a litigant can be deprived from defending for his legitimate right merely on the technical issues?*
- ii. *Whether an eviction order, solely based upon oral averments, since no documents have been produced by respondent herein of their bona fide requirement before the learned trial Court, order for eviction or petitioner can be passed by Addl. Rent Controller, completely ignoring the law as well as rights of the occupant who is*

deeply affected as her bread and butter is being snatched who is in occupation of this shop since last many years?

- iii. Whether any person can seek eviction of any person who is not his/her tenant any premises, who himself is not the owner of the property in question?*
- iv. Whether one tenant can seek eviction of another tenant from the property in question on the ground of bona fide requirement?*
- v. Whether only for purpose of eviction, can respondent herein be allowed to hide their other properties which are more suitable for meeting the so-called bona fide requirement of petitioner. It is stated that correct description of said properties has not been shown/explained by him in petition, which has been done by the respondent herein to mislead learned trial Court to pass an eviction order?*
- vi. Whether the respondent's petition of eviction, only because it was under Section 14 (1)(e) of Act, claiming summary trial, can be allowed on the basis of wrong & fictitious documents?*
- vii. Whether respondent can be permitted to secure favorable order on the basis of concealment of facts?*

16. It was also submitted through the present petition that the respondents had not produced on record any document to prove their ownership and that the respondents were only interested in fetching a huge rent or huge sale consideration on the sale of the entire suit property on eviction of the same by the petitioner herein and that the

contention of the respondents that the eviction by the petitioner/tenant from the tenanted premises was required, was false.

17. It was thus contended on behalf of the petitioner that the eviction petition was liable to be dismissed on the ground of intentional and deliberate concealment of material facts inasmuch as the respondents herein had not disclosed the actual details of properties which were under their ownership in the area of Delhi/New Delhi. The petitioner also submitted that payment of house tax by late Shri Shiv Narayan to the MCD was inconsequential to support the contention of the petitioners herein.

18. *Inter alia* the petitioner contends that vide an application dated 02.09.1982 received in the office of the MCD vide diary no. 241-G the grand-father of the respondent also made a specific admission that the entire land of the area belongs to the Zamindar and that he had taken property on rent and constructed the same which itself was an indicator that even the grand-father of the respondents was a tenant and was never the owner of the property.

19. *Inter alia* the petitioner submitted that there exists no relationship of landlord and tenant between the parties to the *lis*. The petitioner further submitted that the learned trial Court had ignored and misconstrued the legal and factual matrix inasmuch as Shri Rameshwar Dayal, s/o late Shri Shiv Narayan had admitted on 12.05.1987 that the entire land belonged to one Shri Manak Chand to whom he used to pay Rs.10/- p.m. as rent but that he, Shri Rameshwar Dayal did not have the copy of the rent receipt.

20. The petitioner thus contends that the great grand-father of the respondents had himself stated that he was the tenant and used to pay rent to Shri Manak Chand. The petitioner thus contends that there is nothing on the record to indicate that the respondents were entitled to the relief granted to them and that the learned trial Court had also failed to consider that the property in question was situated within a slum area and no permission had been taken from the competent slum authority for institution of the eviction petition.

21. It was also contended on behalf of the petitioner as also contended through the present petition that the requirement of the respondents herein as per their eviction petition was of at least five rooms and that through the eviction petition itself, they had claimed only one room. It was also submitted by the petitioner herein that there was no iota of evidence placed on record by the respondents to show their educational qualification to bring forth that they could even run a tuition centre.

22. Vide the impugned order the learned ARC-1, Central observed to the effect that in view of the house tax assessment of the suit property showing the name of the owner/landlord Shri Shiv Narain, the great grand-father of the petitioners of the eviction petition and the original rent receipt filed by the petitioners of the eviction petition in favour of the respondent to the eviction petition against the rent tendered by the respondent to the eviction petition with respect to the premises in question in terms of Section 116 of the Indian Evidence Act, 1872, the respondent to the eviction petition was estopped from

denying the title of the petitioner over the premises in question. Reliance was *inter alia* placed by the learned ARC-01, Central on the verdict of this Court in ***Ramesh Chand Vs. Uganti Devi, 157 (2009) DLT 450*** with observations therein to the effect that:

“7.It is settled preposition of law that in order to consider the concept of ownership under Delhi Rent Control act, the Court has to see the title and right of the landlord qua the tenant. The only thing to be seen by the Court is that the landlord had been receiving rent for his own benefit and not for and on behalf of someone else. If the landlord was receiving rent for himself and not on behalf of someone else, he is to be considered as the owner, howsoever imperfect his title over the premises may be. The imperfectness of the title of the premises cannot stand in the way of an eviction petition under Section 14(1)(e) of the DRC Act, neither the tenant can be allowed to raise the plea of imperfect title or title not vesting in the landlord and that too when the tenant has been paying rent to the landlord. Section 116 of the Evidence Act creates estoppels against such a tenant. A tenant can challenge the title of landlord only after vacating the premises and not when he is occupying the premises. In fact, such a tenant who denies the title of the landlord, qua the premises, to whom he is paying rent, acts dishonestly.”

23. Reference was also made vide the impugned order on the verdict of this Court in ***Allahrakha Vs. Allahawala, RCR 2014 (2) 279*** whereby it was observed to the effect that:

“Neither is the “tenant allowed to raise the plea of imperfect title nor raise a plea that the title is not vested in the landlord, and that too when the tenant has been paying

the rent to the landlord – Section 116 of the Indian Evidence Act creates an estoppel against such a plea by a tenant.”

24. It was observed vide the impugned order that the ownership of the petitioners of the eviction petition over the premises in question for the purpose of the DRC Act as amended and the existence of the landlord-tenant relationship between the parties stood proved.

25. Though the submission made in the hearing of the present petition i.e. R.C. Rev. 472/2018 which has been filed assailing the impugned order of the learned ARC-01, Central, Tis Hazari Courts in the eviction petition, during the course of submissions made the petitioner herein sought to contend that she had in fact become owner of the premises in question by way of execution of an agreement to sale as a general power of attorney dated 09.12.1996 by one Shri Vishav Mitra who was a tenant of the tenanted premises in question and it was contended that the grand-father of the petitioners of the eviction petition named Shri Than Singh was a witness to the said documents qua which it is essential to observe that there is not an iota of an averment to this effect in the application seeking leave to defend filed by the petitioner herein in eviction petition nor is there such an averment in the present petition apart from merely simpliciter contending that the petitioners of the eviction petition had not been able to establish that they were the owners of the tenanted premises. The petitioner has also sought to contend through the present petition that the learned ARC had failed to appreciate that there existed no relationship of landlord and tenant between the parties to the *lis*.

26. A perusal of the record indicates that placed on record to the present petition is a copy of Civil Suit bearing No.273/2018 filed by the petitioner herein as plaintiff no.1 of that suit along with Mr. Kapil Gupta and Mr. Vipul Kumar sons of the petitioner's spouse Mr. Vijay Gupta as plaintiff nos. 2 & 3 and Ms. Kartika Bindra, w/o Shri Sanjeev Bindra, their daughter as plaintiff no.4 which suit is one against Mr. Vipin Kumar and Mr. Sachin Kumar, sons of late Mr. Om Prakash i.e. the petitioners of the eviction petition no.673/2017 in which the impugned order was pronounced, vide which suit the petitioner herein and plaintiff nos. 2, 3 & 4 had sought a declaration to the effect that they be declared joint/co-owners of the suit property i.e. property bearing House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005 shown in red in the site plan on the basis of a customary title document dated 09.12.2016 being legal heirs of the deceased Vijay Kumar and sought the grant of a decree of permanent injunction against the defendants of the said suit i.e. the petitioners of the eviction petition against sale/alienation/mortgaging, gifting, letting or creating third party interest on the suit property in which suit, summons for settlement of issues along with notice of the application under Order 39 Rule 1 & 2 r/w Section 151 of the CPC filed therein as per the copy of order dated 16.08.2018 in the said suit had been directed to be issued, returnable for 22.11.2018.

27. Significantly, though in the said suit the petitioner herein sought to contend that the recorded Bhumidhar of the land where the suit property is situated is one Shri Manak Chand where the land of

Manakpura is situated and that in the year 1955 Shri Manak Chand leased out his entire land to different persons against Pagri amount according to the land in addition to nominal annual lease money payable to the recorded Bhumidhar and that there was specific understanding that the lessee shall live on the said land after constructing his/her/their respective house and during the said process there was one Mr. Shiv Narayan i.e. the great grand-father of the defendants to the said suit i.e. the petitioner of the eviction petition and Shri Vishav Mitra who were jointly leased out the land measuring 50 Sq. Yds.

28. Through that Civil Suit the petitioner herein along with other plaintiff nos.2, 3 & 4 stated that Mr. Vishav Mitra contributed a lesser amount than Mr. Shiv Narain for Pagri and that it was mutually agreed between Mr. Shiv Narain and Mr. Vishav Mitra that Mr. Vishav Mitra would have ownership right only in respect of land measuring 25 Sq. Yds that too without roof rights and Mr. Shiv Narain would have ownership right in respect of remaining 25 Sq. yds at the ground floor and full rights on the roof of the ground floor of the said property upto the sky and under this arrangement, Mr. Vishav Mitra raised construction on land measuring about 25 Sq. Yds. (without roof right) and started occupying and possessing the suit property in his individual capacity and that Mr. Shiv Narain and Mr. Vishav Mitra were paying their respective shares of the annual lease money to Mr. Manak Chand and paid the same to Mr. Manak Chand till he survived but after the demise of Mr. Manak Chand, none of his legal heirs came

forward for collecting the rent nor claimed anything from the allottee and since that day onwards, all the residents of Manak Pura, Delhi were enjoying the possession of their respective property as its sole and absolute owners.

29. Through the said suit, it was further contended that the petitioner herein/ plaintiff no.1 and plaintiff no.2, 3 & 4 arrayed therein that later on the areas was developed and work of maintenance of the area was entrusted to the MCD and municipal had allotted the numbers to the property and that the property in question measuring 50 Sq. Yds. was allotted property no.10433 and that with the passage of time, it was recognized as property House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005 and that the bigger portion of the said property was in possession and occupation of Mr. Shiv Narain and that the said property was got mutated in favour of Shri Shiv Narain (i.e. the great grand-father of the petitioners of the eviction petition i.e. the respondents to the present petition) for the purpose of paying house tax though the house tax of the said property was jointly paid by Mr. Vishav Mitra and Mr. Shiv Narain as per their respective shares and that Mr. Shiv Narain was paying 3/4th and Mr. Vishav Mitra was paying only 1/4th of the house tax and that Mr. Shiv Narain had admitted in the MCD proceedings of the house tax that the said property was occupied by him and one another tenant i.e. Mr. Vishav Mitra and had also admitted the landlordship of Shri Manak Chand.

30. It was further submitted in the said suit that the suit property did not meet the requirements of the family of Mr. Vishav Mitra and that he shifted his residence from the suit property and started living at some other place and started the business of printing in the suit property under the name and style of M/s R.K. Calico Printers for earning bread and butter for his family somewhere in 1974-1975 and that Mr. Vishav Mitra also obtained an electricity connection in the name of his Firm M/s RK Calico Printers and that Sh. Vishav Mitra for his bonafide needs and requirement sold the suit property to Sh. Vijay Kumar, husband of the petitioner herein arrayed as the plaintiff no. 1 to the civil suit and to the father of plaintiff nos. 2-4 against lawful sale consideration of Rs. 2,18,000/- and after receiving the entire sale consideration amount from Sh. Vijay Kumar, the said Sh. Vishav Mitra signed and executed the customary title documents dated 09.12.1996 such as General Power of Attorney, Agreement to sell, Affidavit, Will, Possession Letter and Receipt and Mr. Vishav Mitra also handed over the vacant and peaceful physical possession of the suit property to Mr. Vijay Kumar at site and that one son of Sh. Shiv Narain namely Than Singh (i.e. the great grand-father of the petitioners of the eviction petition) was the witness to this Sale Transaction and he had also signed the said customary documents in the capacity of witness and Sh. Vijay Kumar started printing work in the suit property but later on due to the objections raised by MCD, Mr. Vijay Kumar closed the said business of printing press and started the business of book binding from the suit property in the name of his wife i.e. Krishna Binding House and Mr. Vijay Kumar run the said

business from the suit property during his life time but after his demise the said business was closed by the plaintiffs.

31. It was also submitted in the said suit by the petitioner herein as plaintiff no.1 along with plaintiff nos. 2 to 4 thereto that after the demise of her spouse Shri Vijay Kumar, the defendants to the said suit (i.e. the petitioner of the eviction petition) started harassing the plaintiffs with mala fide intention to grab the suit property claiming their ownership over the suit property but though the plaintiffs of this suit instituted on 16.08.2018 tried to explain to the defendants and searched the title documents of the suit property in vain, which were not traceable, the defendants to the said suit i.e. the respondent to the present R.C. Rev. 472/2018 forged certain rent receipts showing the deceased Vijay Kumar as tenant in respect of the suit property and filed the eviction petition in question bearing no. E-673/2017 under section 14(l)(e) read with section 25- B of Delhi Rent Control Act, 1958 on the ground of bona fide requirement.

32. *Inter alia* it is submitted through the para-12 of the said suit that as the title documents were not traceable, they could not be placed on record in the eviction petition.

33. The said contentions are now sought to be raised through the oral submissions made during the course of the present R.C. Rev. 472/2018. It is essential to observe that there is not an iota of a whisper in the averments made in the leave to defend filed before the learned ARC concerned in the Eviction petition no.673/2017 nor in the present petition to contend that the petitioner of the present petition along with her children had become joint owners or co-owners

of the suit property in question. The said oral contention now thus raised without it even being averred in the application seeking leave to defend, coupled with the factum that there is not a whisper of an averment in the application seeking leave to defend filed by the petitioner before the learned ARC concerned that the rent receipts were forged, coupled with the factum that there is no such assertion even in the present R.C.Rev. 472/2018, coupled with the factum that admittedly the property in question was assessed to house tax in the name of the great grand-father of the petitioners of the eviction petition as averred before the learned ARC concerned i.e. in the name of the great grand-father of the respondents to the present petition and taking into account the factum that for the purpose of Section 14 (1)(e) of the DRC Act, 1958 as amended as held by the Hon'ble Supreme Court in *T.C. Rekhi Vs. Usha Gujral* ILR 1969 Delhi 9 and in *Shanti Sharma Vs. Ved Prabha* 1987 AIR 2028 that what meant by the word "Owner" general rule is to the effect that the plaintiff has to have a better title than the defendant and is not required to show that he has the best of all possible titles and that the purpose behind requirement of ownership in Section 14 (1)(e) of the DRC Act, 1958 as amended is to avoid misuse of the provision and it need not be proved in the absolute sense of the term of ownership as laid down by this Court in *Parvati Devi Vs. Mahinder Singh* 1996 (1) AD (Del) 819 and as laid down in the *B. Banerjee Vs. Romesh Mahajan* 1996 (63) DLT 930, *Milk Food Ltd. Vs. Kiran Khanna* 1993 (51) DLT 141, *Sushil Kanta Chakravarty Vs. Rajeshwari Kumar* AIR 2000 Del 413, *Ujjagar Singh Vs. Iqbal Kaur* 2002 (97) DLT 646 that the petitioner to an

eviction petition under Section 14(1)(e) of the DRC Act, 1958 as amended need not show that he was the absolute owner in the strict sense and has to show a better and superior title only to the tenant and that as laid down in *Sheela Vs. Prahlad Rai Prem Prakash* by the Hon'ble Supreme Court report in AIR 2002 SC 1264 in the context of a rent legislation a landlord is an owner if he is entitled in his own legal right to evict the tenant and retain the premises for his own use and even though he may not be able to sustain a claim of ownership in a title suit. In the circumstances, thus as already observed that there is not a whisper of an averment in the application seeking leave to defend filed by the petitioner herein as the respondent to the eviction petition that the original rent receipt placed on record in the eviction petition was forged, vide which the respondent to the eviction petition i.e. the petitioner herein had thus implicitly and admittedly paid rent to the petitioner of the eviction petition qua the tenanted premises, in term of Section 116 of the Indian Evidence Act, 1872 which provides as follows:

“116. Estoppel of tenant; and of licensee of person in possession.—No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the time when such licence was given.”, the petitioner of the eviction petition was and is thus estopped from refuting the claim of the

petitioner in the petition under Section 14 (1)(e) of the DRC Act, 1958, as amended.

34. The other contention raised on behalf of the petitioner to the present petition is that there was other alternative accommodation available with the respondents to the eviction petition which has nowhere been specified and the petitioner of the eviction petition also in the facts and circumstances of the case has been unable to negate the claim of bona fide requirement of the petitioners of the eviction petition for the tenanted premises in question in view of their young age of being 20 and 21 years on the date of the institution of the eviction petition as submitted by them coupled with factum that their contention of approaching a marriageable age and that they require the tenanted premises for commencing a tuition centre and also for their self study as contended by them and also for their guests and relatives who visit them inasmuch as the petitioners of the eviction petition have contended that they have only one room available with them in the premises on the first floor of House No.10433, Gali Pathshalawali, Manakpura, Karol Bagh, New Delhi-110005 which is insufficient to meet their need which has not been effectively refuted by the respondent to the eviction petition i.e. the petitioner to the present petition- cannot be accepted.

35. The contention that has been raised during the course of oral submissions in the present petition that the documents executed by Shri Vishav Mitra in the stated erstwhile tenant in the tenanted premises in question who was a tenant under Shri Manak Chand, which documents are stated to have been executed by Shri Vishav

Mitra in favour of the deceased spouse of the petitioner herein which are alleged to have been witnessed by Shri Than Singh, the grandfather of the petitioners of the eviction petition and the contention that Mr. Than Singh would not have been a witness to the said document of agreement to sell of the tenanted premises in question to the deceased spouse of the petitioner by Mr. Vishav Mitra if there had been no such transaction, it is essential to observe that none of these contentions nor documents were admittedly raised by the petitioner before the learned ARC concerned during the submissions made in the application seeking leave to defend and in fact as already observed hereinabove do not find any mention in the present petition and are only sought to be contended through oral submissions made during the course of the present petition.

36. In the circumstances, it is held that there is no infirmity in the impugned order dated 09.03.2018 of the Court of the learned CCJ-cum-ARC-1 (Central), Tis Hazari Courts, New Delhi in Eviction Petition No.673/2017, CIS 785/2017.

37. The petition R.C. Rev. 472/2018 and accompanying applications are thus dismissed.

38. Nothing stated hereinabove shall however amount to any expression on the merits or demerits of civil litigation stated to be pending between the parties.

ANU MALHOTRA, J

OCTOBER 4, 2018

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