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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 27th July, 2018

+ CRL.M.C. 3497/2015

SANJAY BANSAL

..... Petitioner

Through: Mr. H.S. Sharma, Advocate
with Mr. Jai Sahai Endlaw,
Adv. along with petitioner in
person.

versus

KUSUM LATA JAIN

..... Respondent

Through: Mr. P.K.Rawal, Advocate with
Mr. Alok Pandey, & Mr. Tarun
Agarwal, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

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ORDER (ORAL)

1. The petitioner claims to be a tenant in respect of one shop, measuring 6.80 x 2.60 meters, ground floor, forming part of property bearing No.1747-48, Gali Satyawati Lane, Bhagirath Palace, Chandni Chowk, Delhi-110006. An eviction petition in the name of the respondent describing her as the landlady had been filed in the court of Additional Rent Controller (ARC) against the petitioner, it having been registered as eviction case No.E-90/2014, the ground invoked being under Section 14(1)(a) of the Delhi Rent Control Act, 1958, *i.e.* non-payment of rent.

2. The petitioner, upon being served with the notice of the said petition, appeared in the court of learned ARC and while filing written

statement also presented an application under Section 340 of the Code of Criminal Procedure, 1973 (Cr.P.C.), submitting that the petition had been filed by someone impersonating as the respondent herein, her signatures allegedly having been forged and fabricated on the eviction petition, the affidavit filed in its support as also on the *vakalatnama* in favour of her advocates Mr. P.K. Rawal and Mr. Harish Kumar, practicing from Chamber Nos.241-242, Civil Wing, Tis Hazari Courts, Delhi-110054. The forgery is sought to be demonstrated by comparison to the signatures of the respondent as appearing in the afore-mentioned pleadings and other documents with copy of the registered will dated 18.07.2014 (Annexure P-2).

3. When the aforesaid application was taken up by the learned ARC on 28.05.2015, the counsel appearing for the petitioner (respondent herein) in the eviction case made a statement seeking to withdraw the eviction petition. Though application was opposed by the counsel for the petitioner herein, i.e. respondent/tenant in the eviction case, the ARC permitted the petition to be withdrawn and dismissed it accordingly holding, *inter alia*, that the application under Section 340 Cr.P.C. was “*not maintainable*” referring in this context to the ruling of the Supreme Court in *Ibal Singh Narang vs. Veeran Narang*, (2012) 2 SCC 60.

4. The present petition invoking the inherent jurisdiction of this court under Section 482 Cr.P.C. was filed questioning the correctness, legality and propriety of the afore-mentioned order of the ARC, trashing the application under Section 340 Cr.P.C. of the petitioner

herein without inquiry, not even a response having been called from the opposite side or the counsel representing it, in the submissions of the learned counsel for the petitioner, with wrong reference to the ruling of the Supreme Court in *Iabal Singh Narang* (supra).

5. The learned counsel on both sides have been heard.

6. It is well conceded by the learned counsel on both sides that the forum of ARC is a “civil court” by virtue of the provision contained in Section 36 of Delhi Rent Control Act, 1958, as indeed, by virtue of provision in Section 195(3) Cr.P.C. It is on that account that the learned ARC had the jurisdiction to deal with the application under Section 340 Cr.P.C., which, it is submitted, pertains to offences which had been committed in relation to the proceedings pending before the said forum within the meaning of Section 195 Cr.P.C. But, dismissal of the application under Section 340 Cr.P.C. is a subject-matter of remedy of appeal which is available under Section 341 Cr.P.C., which reads thus:-

“(1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub- section (1) or sub- section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any such order, an order under section 340, shall be final, and shall not be subject to revision.”

7. Under the scheme of Delhi Rent Control Act, 1958, the rent control tribunal is the appellate forum against the orders passed by the court of Rent Controller, this by virtue of Section 38 of Delhi Rent Control Act, 1958 and the latter forum is subordinate to the former.

8. At this stage, the learned counsel for the petitioner submitted, on instructions, that he may be permitted to withdraw the present petition under Section 482 Cr.P.C. and instead be given liberty to approach the Rent Control Tribunal by appeal under Section 341 Cr.P.C., his submission being that the time spent in these proceedings may be discounted for purposes of condonation of delay.

9. The petition at hand is dismissed as withdrawn with liberty as prayed for granted.

10. Needless to add, the concerned forum which is approached pursuant to the above noted liberty shall have regard to the above noted explanation for delay while considering the prayer for its condonation, in accordance with law.

R.K.GAUBA, J.

JULY 27, 2018

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