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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RC.REV. 145/2018

KAILASH AHUJA

..... Petitioner

Through Mr.P.P.Ahuja, Advocate

versus

BALISTER KUMAR TYAGI

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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17.12.2018

CM Appl.No.14325/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

RC.REV. 145/2018, CM Appl.No.14326-14327/2018

This petition challenges the order dated 18.08.2017 wherein the respondent was allowed to withdraw the petition with liberty to file afresh.

It is submitted by learned counsel for the petitioner that the respondent in the eviction petition filed against him has shown the rent of the premises to be Rs.850/- per month and hence the learned Additional Rent Controller had jurisdiction to deal with the matter. However behind his back an application under Order 23 Rule 1 CPC was filed by the respondent for withdrawal of proceedings to file a suit for possession. It is the case of learned counsel for the petitioner

since the respondent has himself alleged the rental of the premises to be Rs.850/- per month he ought not to have been granted liberty to file a suit for possession.

A bare perusal of order dated 18.08.2017 shows the respondent has been allowed to withdraw the present case with liberty to file afresh. No liberty as such has been granted to file suit for possession in the impugned order. The plea of the petitioner qua the admission of the rental by the respondent in eviction proceedings can very well be taken in the suit for possession by the petitioner. Nothing survives in the present petition and it stands disposed of along with pending application, if any.

YOGESH KHANNA, J.

DECEMBER 17, 2018

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