

\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 253/2019 & CM APPL. 7057/2019**

MADHU ARURA & ORS Petitioners
Through: Mr. P.K. Rawal & Mr. Tarun
Agarwal, Advocates.

versus

MADAN MOHAN GUPTA Respondent
Through: Mr. P.D. Gupta, Sr. Advocate with
Mr. Abhishek Gupta, Advocate.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **15.02.2019**

CAV 149/2019

Learned counsel for the caveator is present and has been heard.
The caveat thus, stands discharged.

CM APPL. 7056/2019 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CM APPL. 7058/2019 (Condonation of delay)

This is an application seeking condonation of 25 days delay in re-filing the petition after removal of objections. For the reasons explained in the application, the said delay is condoned.

The application stands disposed of.

CM(M) 253/2019 & CM APPL. 7057/2019

Submissions have been made on behalf of either side.

Vide the present petition, the petitioner assails the impugned order dated 24.09.2018 of the learned ARC-2, Central Tis Hazari Courts in E-148/15 vide which three applications filed on behalf of the petitioner herein arrayed as the respondent to the said eviction petition filed under Section 14(1)(e) of the DRC Act, 1958 read with Section 25B thereof by the respondent herein were declined.

As regards the first application that was filed by the petitioner herein under Order VI Rule 14A r/w Section 151 of the CPC to contend that the petitioner of the eviction petition i.e. the respondent herein had given his residential address at 10-E, First Floor, Kamla Nagar, Delhi-07 whereas he had admitted repeatedly in the proceedings before the Court of the learned ACMM, Delhi that he permanently resides at House no.759, Awas Vikas Colony, Mandal Colony, Haridwar, Uttarakhand and that the proceedings were liable to be stayed until the petitioner of the eviction petition furnished his correct address in terms of Order VI Rule 14A of the CPC, learned counsel for the petitioner now, does not press the said prayer that was made before the learned ARC-2, Central, THC, which was declined vide the impugned order. The prayer thus, challenging the impugned order to this extent is thus dismissed.

As regards another application filed by the applicant/tenant before the learned ARC in which the applicant sought to contend that the petitioner had wrongly stated himself to be residing at property No.10-E, First Floor, Kamla Nagar, Delhi-07 whereas he made a statement in a criminal complaint before the learned M.M. Delhi

admitting that he was residing at 759, Awas Vikas Colony, Mandal Colony, Haridwar, Uttarakhand and had taken a false plea that he was residing at Delhi and he wanted to do his business whereas he had no such intention to start a business at Delhi and this came to the knowledge of the applicant only on 16.01.2018 and thus an additional affidavit was sought to be filed, the said prayer was declined vide the impugned order to the effect that this was not such a subsequent event which could warrant the filing of an additional affidavit and that the plea had already been taken by the applicant in the application seeking leave to defend and thus there was no ground to file an additional affidavit.

It is essential to observe that qua the application under Order VI Rule 14A read with Section 151 of the CPC that had been sought to be pressed before the learned ARC by the petitioner of the present petition that the residential address of the landlord was 759, Awas Vikas Colony, Mandal Colony, Haridwar, Uttarakhand, which application had been declined qua the invocation of Order VI Rule 14A of the CPC, the prayer has now not been pressed on behalf of the petitioner. Even otherwise, as rightly observed by the learned ARC-2, Central, Delhi, it has been repeatedly pleaded and as also submitted on behalf of the respondent to the present petition that there are averments at all stages in the application seeking leave to defend in the petition categorically made by the petitioner herein that the landlord resides at 759, Awas Vikas Colony, Mandal Colony, Haridwar, Uttarakhand. The prayer thus, seeking submission of the

additional facts in relation to the said aspect cannot be thus granted.

As regards the prayer made by the petitioner herein seeking that the third application that had been filed by the applicant/petitioner herein to contend that the landlord had no intention to start any business from the demised premises and the sole intention of the petitioner was to get the premises vacated and thereby to convert the same into a commercial hub and that some settlement had been arrived at between the petitioner of the eviction petition and one builder namely Sh. Shekhar Bajaj and this was learnt by the applicant/tenant only a few days back that the petitioner of the eviction petition and his brother had already entered into an agreement with the property dealer and some understanding had been arrived at between them and the said aspect was sought to be brought forth through an additional affidavit, as rightly contended on behalf of the respondent to the present petition, the petition is one under Section 14(1)(e) read with Section 25-B of the DRC Act, 1958 (as amended) and the provisions of Section 19(2) of the DRC Act, 1958 can always be brought forth into play by the tenant in the event of there being any malafide act on behalf of the landlord. There is no merit in the prayer.

The present petition and the accompanying application CM APPL. 7057/2019 are declined.

ANU MALHOTRA, J

FEBRUARY 15, 2019/NC