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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 450/2019 & CM APPL. 12543-12545/2019
RAM SHARAN Petitioner
Through Mr. Vijay Kinger, Adv.

versus

TILAK RAJ AHUJA Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
18.03.2019

CM APPL. 12545/2019 & CM APPL. 12545/2019

Exemptions are allowed subject to all just exceptions.

Applications are disposed of.

CM(M) 450/2019 & CM APPL. 12543/2019

The petitioner assails the impugned order dated 18.01.2019 of the learned SCJ/RC (East) in the proceedings in RC/ARC no. 12/17 vide which an application under Section 151 of the CPC filed on behalf of the respondent to the said eviction petition seeking to bring on record the additional affidavit and documents in support of the application / affidavit seeking leave to defend as filed by the respondent to the said eviction petition arrayed as the petitioner herein was declined.

It has been submitted on behalf of the petitioner that all these documents that are sought to be brought forth on record are to bring forth the lack of bonafides of the landlord in institution of the eviction petition submitting to the effect that the petitioner's wife is also involved in the

business of the company and that there is a Certificate of Incorporation also in relation thereto.

The impugned order indicates categorically to the effect that the application seeking leave to defend had been filed by the present petitioner i.e. the respondent on 09.02.2017. The documents that had been sought to be filed vide the list of documents by the respondent to the eviction petition i.e. the petitioner herein were copies of the Income Tax Returns for the assessment year 2014-15 and 2016-17, Certificate of Incorporation dated 29.07.2008 of Gogia Buildwell and Contractors Private Limited, one form DIR-2 of the said company, copy of balance sheet and profit and loss account statement of the said company, both dated 01.09.2016 and Directors Report/Annual Report dated 18.08.2017 of the said company. It has been observed categorically vide the impugned order that the said documents were all of the date prior to the date 09.02.2017 i.e. apparently in relation to the documents other than the documents dated 18.08.2017. It has been also stated that from where the said report had been obtained, had not been specified and that none of said documents sought to be brought on record by way of the present application are in the nature of subsequent events and the respondent to the eviction petition ought to have been diligent in filing all the documents within the statutory time limit.

It was considered essential to peruse the application that was filed by the petitioner before the Rent Controller to ascertain as to when the petitioner herein got the knowledge of the said documents and it is observed that there is not a single averment in the said application to indicate as to when the said documents were obtained by the petitioner.

Taking into account the factum that all the documents except the

document dated 18.08.2017 were of the date prior to the date 09.02.2017, when the leave to defend application had been filed by the petitioner herein, the prayer made by the petitioner herein seeking to bring on record all the said other documents through an additional affidavit in support of the leave to defend are declined.

As regards the documents in relation to the annual report dated 18.08.2017, the said document is undoubtedly after the date 09.02.2017 i.e. the Director's Annual Report. However, the petitioner is unable to bring forth as to how the said report is relevant to negate the aspect of bonafide requirement of the tenanted portion.

The petition and the accompanying application are declined.

ANU MALHOTRA, J

MARCH 18, 2019/MK