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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 19th September, 2019

+ **CM (M) 799/2019 & CM APPL. 24420/2019**
INDERJEET SINGH Petitioner
Through: Mr. Rambhakt Agrawal, Advocate.
(M:9818107195)

versus

KULDEEP KAUR Respondent
Through: Mr. Tushar Rao and Mr. Nimish
Chib, Advocates. (M:9810823566)

AND

+ **CM (M) 800/2019 & CM APPL. 24474/2019**
INDERJEET SINGH Petitioner
Through: Mr. Rambhakt Agrawal, Advocate.

versus

KULDEEP KAUR Respondent
Through: Mr. Tushar Rao and Mr. Nimish
Chib, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present two petitions arise out of the eviction proceedings filed by the Respondent/Landlord (*hereinafter* 'Landlord') against the Petitioner/Tenant (*hereinafter* 'Tenant') in respect of the property bearing No. GL-18, Jail Road, Hari Nagar, New Delhi. Two orders i.e. orders dated 20th April, 2019 and second order dated 7th May, 2019 are the impugned order before this Court. The first order relates to non-acceptance of certain exhibits filed by the Tenant and second order closes the right of the Tenant to lead evidence.

2. The brief background is that a petition for eviction was filed under

Section 14(1)(e) of the Delhi Rent Control Act, 1958 (“DRC Act”). The evidence of the Landlord was closed on 21st December, 2017 and the Tenant was permitted to lead his evidence. However, from 21st December, 2017 despite repeated adjournments, the affidavit in evidence was not filed on behalf of the Tenant. Suddenly on 21st February, 2018, an application under Order VII Rule 11 CPC was filed by the Tenant, which was rejected by the Id. ARC. Until the decision in the application under Order VII Rule 11 CPC, the Tenant chose not to file his affidavit in evidence.

3. Finally, on 10th December, 2018 the Tenant filed his affidavit in evidence and also an application seeking to bring on record further exhibits. The Id. ARC refused to take exhibits on record, first, on the ground that the same were being filed at a belated stage and secondly, on the ground that there is no merit in the application seeking to bring on record the said documents. This order came to be challenged in CM (M) 800/2019. Thereafter, the Tenant did not appear before the Trial Court to lead any further evidence in the matter despite the order of the Trial Court. On 7th May, 2019, the Id. ARC closed the Tenant’s evidence. This order has been challenged in CM (M) 799/2019.

4. It is submitted on behalf of the Tenant that the exhibits sought to be brought on record are relevant inasmuch as there have been subsequent developments in the property itself, which the Tenant wishes to rely upon. Thus, rejection of the exhibits and closure of evidence, was not proper and was not in accordance with law.

5. On the other hand, Id. counsel for the Landlord submits that the Tenant has continuously delayed the proceedings in the present case, which has also been observed by the Id. Trial Court while deciding the application

under Order VII Rule 11 CPC. Since the Tenant has unnecessarily been delaying the proceedings, no indulgence deserves to be shown. Ld. Counsel has taken the court through the orders of the trial court.

6. A perusal of the order deciding the application under Order VII Rule 11 CPC shows that the Ld. ARC was quite conscious of the fact that the Tenant was delaying the proceedings. Moreover, this Court has also perused the order sheet, which shows that the Tenant has deliberately not led evidence after closure of the Landlord's evidence. In proceedings between landlords and tenants under the DRC Act, it needs to be borne in mind that the entire proceeding is supposed to be summary in nature and there cannot be delays of this nature caused by the Tenant. Protection under the DRC Act cannot be misused to simply delay the eviction proceedings unnecessarily, in order to remain in possession by not leading evidence or by moving frivolous and misconceived applications. While there could be some justification in support of the Tenant that he wishes to rely upon further exhibits, the same should have been led right at the inception, when the Landlord's evidence was closed. Since the said exhibits were sought to be brought on record so belatedly, the Trial court rejected the same. However, the court has seen the description of the exhibits. They are primarily current photographs of the property, to establish that the Landlord does not have a need for the shop which the Tenant occupies. They relate to subsequent events and are accordingly directed to be taken on record subject to costs.

7. This court is of the opinion that closure of the evidence, at this stage, would put the final judgment in jeopardy, irrespective of whatever the conclusion may be. Accordingly, one last and final opportunity can be given to the Tenant to lead evidence. It is directed as under:

- 1) The affidavit in evidence, along with exhibits annexed therewith, be taken on record, subject to the same being proved in accordance with law.
 - 2) The Tenant shall lead evidence of one witness i.e. RW-1 on a single date, which shall be fixed by the Id. ARC. On the said date, if the witness does not appear, without any further orders, permission granted to lead evidence shall automatically stand closed.
 - 3) The cross-examination of the said witness by the Landlord shall be conducted on the date fixed by the Id. ARC.
 - 4) The evidence is being taken on record and the Tenant is allowed to lead evidence, subject to payment of Rs.50,000/- as costs to be paid to the Landlord.
 - 5) The costs shall be tendered before the affidavit in evidence of the Tenant is taken on record. The same shall be tendered in evidence, subject to the payment of the said costs. The Id. ARC shall make an endeavour to dispose of the petition expeditiously.
8. The matter is stated to be listed tomorrow i.e. 20th September, 2019 on which date the Id. ARC will fix a date for recordal of examination in chief and cross-examination of the Respondent's witness RW-1. The examination and cross examination shall take place on a single date.
9. The petitions are disposed of in the above terms. Copy of the order be given *dasti* under signatures of the Court Master.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 19, 2019/dk