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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 01.10.2019

+ RC.REV. 410/2019

IRFAN UL HAQ & ORS

..... Petitioners

versus

MOHD IKRAM & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr.S.D.Ansari and Mr.I.Ahmad, Advocates.

For the Respondent: Mr.Sunil Dutt Dixit, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.30570/2019 (exemption)

Exemption is allowed subject to all just exceptions.

CAV 681/2019

Learned counsel for the respondent/caveator has entered appearance. Caveat stands discharged.

RC.REV. 410/2019 & CM APPL.30569/2019

1. Petitioner impugns order dated 02.04.2019, whereby, leave to defend application of the petitioner has been dismissed and an

eviction order passed.

2. Respondent had filed the subject eviction petition seeking eviction of the petitioner from first floor of property bearing No.882, Ward- XI, Gali Farshwali, Haveli Asam Khan, Bazar Chitli Qabar, Jama Masjid, Delhi- 110006 on the ground of bonafide necessity under Section 14(1)(e) of the Delhi Rent Control Act.

3. The respondent had claimed eviction of the petitioner on the ground that their family comprises of the respondent, his wife, daughter and two sons and they are residing on the ground floor of the subject property which consists of only two rooms and the accommodation in their possession is insufficient for their requirement and they bonafidely require the tenanted premises.

4. Leave to defend application was filed by the petitioners inter-alia disputing the ownership of the respondent besides disputing the bonafide need.

5. It is contended in the leave to defend application that the property was taken on rent by the petitioners from one Mohd.Siddique and the family of Mohd.Siddique comprised of himself and his wife Smt.Ahmad Bi and Mohd. Siddique died in the year 1970 and Smt.Ahmad Bi pre deceased him and they left no issue. It is contended that thereafter no one has ever claimed landlordship/ownership of the property and rent has not been paid by

the petitioners to any other person.

6. The respondents/landlords have claimed ownership based on a sale deed dated 16.02.1983. As per the sale deed property had been purchased from Mohd.Ikram who claims that the property was gifted to him by one Mohd.Ajmal and Sheikh Rais Ahmad according to Muslim Personal law and the title of Mohd.Ajmal was established by a decree of a Court.

7. Learned counsel for the petitioners submits that no connection has been shown by the respondent landlord between Mohd.Ajmal and Mohd.Siddique or Ahmad Bi and as such the sale deed does not confer title on the respondent.

8. Learned counsel for the respondent submits that Mohd.Ajmal was a nephew of Ahmad Bi and as such succeeded to the subject property and his rights were established by an Arbitration award which was made Rule of the Court by the concerned Court.

9. He, however, concedes that as of now the respondents do not have the relevant documents of the Suit or the award and the same can be produced after obtaining the same from the Registry of the Court.

10. Learned counsel for the respondent without prejudice submits that without admitting the grounds in the leave to defend, as the respondents have to acquire the documents from the Court and produce the same before the Rent Controller, leave may be granted to

the petitioner subject to the condition that the Rent Controller be directed to expedite the hearing of the proceedings.

11. In view of the above and also in view of the fact that the respondents would be required to establish their title before the Rent Controller and the said issue besides other raised a triable issue, the impugned order dated 02.04.2019 is set aside.

12. Leave is granted to the petitioner.

13. List the petition before the concerned Rent Controller on 08.11.2019. Petitioners shall file their written statements before the Rent Controller on the said date.

14. Rent Controller is directed to expedite the proceedings and endeavour to conclude the same within a period of nine months from the next date before the Rent Controller.

15. Petition is disposed of in the above terms.

16. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

OCTOBER 01, 2019

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