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

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Judgment delivered on: 21.11.2019

+ RC.REV. 624/2019

RADHEY SHYAM SHARMA

..... Petitioner

versus

AMIT KUMAR & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr.Amit Mahajan, Advocate.

For the Respondents: Mr.Vipin Nandwani, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 48291/2019 (Exemption)

Allowed, subject to all just exceptions.

CM APPL. 48289/2019 (condonation of delay in re-filing)

For the reasons stated in the application, the delay in re-filing the petition is condoned. The application is disposed of.

CAV. 1110/2019

In view of the appearance of the learned counsel for the respondents, caveat stands discharged.

RC.REV. 624/2019 & CM APPL. 48290/2019 (stay)

1. Petitioner impugns order dated 13.05.2019 whereby leave to defend application of the petitioner has been dismissed on the ground that same was filed late and an eviction order passed.

2. Learned counsel for the petitioner submits that the respondent is neither the owner nor landlord of the property. He further submits that there is no relationship of landlord and tenant between the parties and even the description of the property is incorrect in the eviction petition and for which he has already filed a suit for declaration which is pending.

3. Learned counsel for the petitioner further submits that as an order of eviction has been passed on account of the default in not filing the leave to defend application, the petitioner without prejudice to his rights and contention, would hand over the peaceful vacant possession of the subject property to the respondent within four weeks from today reserving his rights to take appropriate proceedings in accordance with law for declaration of his title as well as seeking restoration of his possession.

4. Learned counsel for the respondent submits that the relationship of landlord and tenant did exist and respondent has rightly given the description of the property. He submits that Respondent is already defending the suit filed by the petitioner and said suit is not maintainable and is also not in respect of the tenanted premises. He

further submits that in case any proceedings are initiated by the petitioner, respondent reserves his right to defend the same in accordance with law.

5. Learned counsel for the petitioner seeks leave to withdraw the petition, reserving his rights as stated hereinabove.

6. The petition is accordingly dismissed as withdrawn. Petitioner is directed to hand over peaceful vacant possession to the respondent or before 20.12.2019, without prejudice to the rights and contentions of the parties.

7. All rights and contentions of the parties are reserved.

8. Order *dasti* under signatures of the Court Master.

NOVEMBER 21, 2019
‘rs’

SANJEEV SACHDEVA, J