

\$~68

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

% Judgment delivered on: 09.12.2019

+ RC.REV. 691/2019 & CAV. 1210/2019

SUBHASH GULATI

..... Petitioner

versus

HARISH KUMAR SETHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr.Ravi Sikri, Sr. Adv. with Mr. Kunal
Mada, Adv.

For the Respondent: Mr.Neeraj Yadav and Mr.Siddharth Arora,
Advs.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APP No.52918/2019

Allowed, subject to all just exceptions.

RC.REV. 691/2019

1. Petitioner impugns judgment dated 17.09.2019 whereby the eviction petition filed by the respondent has been allowed and an eviction order passed.

2. Learned senior counsel for the petitioner contends that the proceedings were listed on 02.09.2019 before the Rent Controller,

when the arguments on an application filed by the petitioner under Section 151 CPC were heard and thereafter, the matter was adjourned to 17.09.2019 for orders/clarification and the Rent Controller instead of disposing of the application under Section 151 CPC pronounced the impugned judgment allowing the eviction petition on which no arguments were heard.

3. Learned senior counsel for the petitioner submits that perusal of the order dated 02.09.2019 clearly shows that arguments were only heard on the application under Section 151 CPC and no arguments on the eviction petition were heard.

4. Learned counsel appearing for the respondent/caveator submits that written arguments were filed by the respondent along with the judgments on the eviction petition. He submits that as the evidence of the petitioner/tenant was closed, the application under Section 151 CPC for re-opening of evidence was also without any merit.

5. Learned counsel submits that though the order does not record, that arguments were heard on the eviction petition, however composite arguments were heard by the Rent Controller.

6. Perusal of the order dated 02.09.2019 does not indicate that arguments on the eviction petition were heard by the Rent Controller, the tenor of the order indicates that the arguments were heard only on the application under Section 151 CPC. The impugned order dated

05.09.2019 does not dispose of the application under Section 151 CPC filed by the petitioner but disposes of the eviction petition filed by the respondent.

7. In view of the above, the impugned order is not sustainable. The impugned judgment dated 17.09.2019 is accordingly set aside.

8. The Eviction Petition is remitted to the Rent Controller to dispose of the application of the petitioner under Section 151 CPC and to hear the parties and decide the eviction petition afresh.

9. List the Eviction Petition before the Rent Controller for directions on 18th December, 2019.

10. Rent Controller shall endeavour to dispose of the application of the petitioner under Section 151 CPC as also the eviction petition within a period of three months from the said date.

11. It is clarified that this Court has neither considered nor commented upon the merits of the case of either party.

12. Order *dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J.

DECEMBER 09, 2019

neelam