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

% Judgment delivered on: 19.11.2019

+ RC.REV. 88/2017 & CM APPL. Nos. 8756-57/2017,
51485/2018

JASBIR SINGH

..... Petitioner

versus

MADHU AGGARWAL & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr.Mohit Gupta and Mr. Pawan Dubey, Advocates.

For the Respondent: Mr.P.K. Bahl and Mr.Bharatdeep Singh, Advocates

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 09th January, 2017 whereby the eviction petition filed by the petitioner under Section 14(i)(e) of the Delhi Rent Control Act, 1958 on the ground of *bona fide* necessity has been dismissed after trial.

2. Petitioner had filed the subject eviction petition seeking eviction of the respondent from one shop on the Ground Floor of the property bearing No. E-9, Jawahar Park, Laxmi Nagar, Delhi 110092.

3. One of the contentions of the petitioner is that there are two shops on the ground floor of the subject property; one is the tenanted premises and the other shop is in the occupation of the married daughter and the son-in-law who were running their lawyer's office from the said premise.

4. The Rent Controller after perusing the evidence has held that the petitioner has failed to mention in the pleadings that the adjoining shop is being used by his younger daughter and his son-in-law and no evidence has been placed on record to show that a lawyer's office was being run from the said premises.

5. Learned counsel for the petitioner submits that there is sufficient material available in the form of correspondence and letters received and sent from the subject property to show that the same was and is being used as an office.

6. Perusal of the cross-examination of the petitioner's witnesses particularly, the daughter who claims to be using the same as lawyer's office shows that a question was specifically asked as to whether the petitioner and the witnesses had placed on record any correspondence from the said office showing the address of the property and the answer was in the negative that no such document had been placed on record. However, it was stated the same was available. Even thereafter such material was not placed on record.

7. In these proceedings, petitioner has filed the correspondences as

well as e-mails of the period prior to filing and during the pendency of the eviction petition to contend that the office of the daughter and son-in-law is being run from there.

8. Learned counsel for the petitioner prays for an opportunity to lead additional evidence before the Rent Controller on the said aspect.

9. Learned counsel for the respondent submits that though no such material was placed, however, without prejudice to the rights & contentions, he has 'no objection' provided an opportunity is granted to the respondent to lead evidence to controvert the same.

10. In view of the above and with the consent of learned counsel for the parties, impugned judgment dated 09th January, 2017 is set aside. The matter is remitted to the Rent Controller. Rent Controller shall afford opportunity to the petitioner to place on record additional documents and lead additional evidence.

11. Opportunity shall also be given to the respondent place on record additional documents and lead evidence in rebuttal.

12. List the matter before the concerned Rent Controller on 04th December, 2019, for directions.

13. Keeping in view the facts that the petition was filed in the year 2014, Rent Controller is directed to expedite the proceedings and endeavour to conclude the same within a period of six months from the next date.

14. It is further directed that the Rent Controller shall decide the matter afresh without being influenced by anything stated in the impugned order dated 09.01.2017.

15. Petition is disposed of in the above terms.

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

NOVEMBER 19, 2019
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SANJEEV SACHDEVA, J.