

\$~13

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

%

Judgment delivered on: 27.11.2019

+ RC.REV. 203/2018

SAROJ RANI

..... Petitioner

versus

MANJU GUPTA

..... Respondent

Advocates who appeared in this case:

For the Petitioner:

Mr. S.D. Baloni, Advocate.

For the Respondents:

Mr. Rajeev Saxena with Mr. Rachit Sahney,
Ms. Namrata Chauhan and Mr. Manish Khurana,
Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

RC.REV. 203/2018 & CM APPL.19156/2018 (stay), CM APPL.19158/2018 (filed on behalf of petitioner for placing on record additional documents)

1. Petitioner impugns order dated 24.11.2017, whereby, leave to defend application of the petitioner was dismissed and an eviction order passed.
2. Respondent had filed the subject eviction petition seeking eviction of the petitioner from one room, one kitchen and baramdah on the second floor of property No.1407, Kucha Ustad, Hira Bazaar, Guliyan Dariba Kalan, Delhi, more particularly, as shown in red colour in the site plan annexed to the eviction petition.

3. Learned counsel for the petitioner, *inter alia*, contends that the eviction petition has been filed in respect of only part of the tenanted premises as the petitioner in addition to the above portion also has one room on the first floor in his tenancy and since there is one composite tenancy for the said accommodation on the two floors, one eviction petition is not maintainable.

4. Learned counsel for the respondent submits that the respondent is the owner only of the second floor and above and as such the subject eviction petition was filed only for the accommodation on the second floor. He submits that as the said technical defect has been pointed out by the learned counsel for the petitioner in the eviction petition, he seeks leave to withdraw the eviction petition reserving the right of the respondent to file a fresh eviction petition after removing the technical defect.

5. In view of the above, impugned order dated 24.11.2017 is set aside.

6. At the request of learned counsel for the respondent, the eviction petition filed by the respondent before the Rent Controller is dismissed as withdrawn with liberty to the respondent as prayed for.

7. Petition is, accordingly, disposed of in the above terms.

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

SANJEEV SACHDEVA, J

NOVEMBER 27, 2019
st