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

% Judgment delivered on: 17.02.2020

+ RC.REV. 101/2020

NIWAS JINDAL & ANR

..... Petitioners

versus

MANJU AHUJA

..... Respondent

Advocates who appeared in this case:

For the Petitioners: Mr.B.B. Gupta, Sr.Adv. with Mr.Pranav Gambhir,
Mr.Saaransh Sharma and Mr.Manish Garg, Advs.

For the Respondent: Mr.Anshul Gupta, Adv.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. No. 6409/2020

Allowed, subject to all just exceptions.

CAV No. 153/2020

Since caveator has entered appearance, caveat is discharged.

RC.REV. 101/2020 & CM APPL. No. 6410/2020

1. By this petition, petitioner impugns order dated 09.07.2019 whereby the leave to defend application of the petitioner has been dismissed and an eviction order passed.

2. Learned senior counsel appearing for the petitioners, *inter alia*, contends that the respondent is neither the owner nor the landlord of the subject premises.

3. It is contended that the admitted position is that the property was let out to the petitioners by Smt. Shanti Devi, the mother-in-law of the respondent and after her demise, the property has devolved on her children including the husband of the respondent and since the husband is alive, the eviction petition was not maintainable by the respondent.

4. It is further contended that when the petitioners, in a suit for injunction had contended that respondent was receiving the rent from the petitioners, she had sought to dispute the same and contended that there was no relationship between the parties.

5. Learned senior counsel for the petitioners contends that the subject petition is not maintainable at the behest of the respondent.

6. Learned counsel for the respondent under instruction seeks leave to withdraw the eviction petition reserving the liberty of the owners/co-owners to file a fresh petition on the same cause of action.

7. In view of the above, the impugned order dated 09.07.2019 is set aside. The eviction petition filed by the respondent before the Court of Rent Controller is dismissed as withdrawn.

8. Needless to say that the owners/co-owners shall have the right

to file an eviction petition, on the same cause of action, in accordance with law without being influenced by anything stated in this order.

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

SANJEEV SACHDEVA, J.

FEBRUARY 17, 2020
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