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

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Judgment delivered on: 10.12.2020

+ CM(M) 527/2020

RAGHUBIR KAUR (SINCE DECEASED) THROUGH LRS
..... Petitioner

versus

SURESH KUMAR Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Ashok Gurnani, Advocate.

For the Respondent: Ms. Amrit Kaur Oberoi, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM (M) 527/2020 & CM APPL.27196/2020 (under Order 22 Rule 3)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 07.10.2020, whereby, application of the petitioner seeking leave to withdraw the appeal with liberty to file a revision petition has been partly allowed inasmuch as the appeal has been dismissed as withdrawn, without granting any express liberty to file a revision petition.
3. Petitioner had filed an eviction petition under Section 14(1)(e) read with section 25B of the Delhi Rent Control Act, which petition was dismissed by order dated 05.06.2018.

4. Impugning the order dismissing the eviction petition, petitioner filed the subject appeal before the Rent Control Tribunal under Section 38 of the Delhi Rent Control Act.

5. During arguments in the appeal, written arguments were filed by the respondent contending that an appeal was not maintainable and the remedy of the petitioner was only by way of a revision petition under Section 25B(8) of the Delhi Rent Control Act.

6. Faced with the objection taken in the written arguments, petitioner filed the subject application seeking permission to withdraw the appeal with liberty to file a revision petition.

7. Learned counsel for the petitioner submits that in view of the fact no express liberty has been granted to the petitioner, petitioner would be precluded from filing a revision petition.

8. This is disputed by learned counsel for the respondent, who submits that the remedy of the petitioner was to file a revision petition under Section 25B(8) of the Delhi Rent Control Act because Section 25 B is a separate Code in itself and it expressly provides for a remedy of the revision against the order allowing or dismissing an eviction petition filed under Section 14(1)(e) read with Section 25B of the Delhi Rent Control Act.

9. In my view the petitioner has filed the present petition merely on an apprehension that his revision petition is not likely to be entertained, if filed.

10. It is a settled position that against an order dismissing an eviction petition filed under Section 14(1)(e) read with Section 25B of the Delhi Rent Control Act, remedy is only by way of a revision petition under Section 25B(8) of the Delhi Rent Control Act. Petitioner appears to have been incorrectly advised to file an appeal and since the appeal itself was not maintainable, nothing prevents the petitioner from filing a revision petition under Section 25B(8) of the Delhi Rent Control Act. Petitioner does not need express permission or leave to file a revision under Section 25B(8) of the Delhi Rent Control Act.

11. In my view, no express leave or liberty is required by the petitioner to file a revision petition after withdrawing his appeal which was filed before a wrong forum especially in view of the objections specifically having been taken by the respondent that the appeal was not maintainable and only a revision under Section 25B(8) of the Delhi Rent Control Act would lie required.

12. The impugned order does not require any interference. Petition is dismissed with the above observation.

13. Copy of the judgment be uploaded on the High Court website and be also forwarded to learned counsels through email.

DECEMBER 10, 2020
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SANJEEV SACHDEVA, J