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

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Judgment delivered on: 14.01.2020

+ RC.REV. 159/2018 & CM APPL.15854/2018

SUFI HAKIM HAFIZ SULEMAN Petitioner

versus

HASEENA BEGUM Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. S.D. Ansari, Advocate.

For the Respondent: Mr. Mohd. Elahi with Mr. Saiful Islam and
Ms. Dimpal, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 22.11.2017, whereby, leave to defend application of the petitioner has been dismissed and an eviction order passed.

2. Respondent had filed the subject eviction petition seeking eviction of the petitioner on the ground of bonafide necessity under Section 14(1) (e) of Delhi Rent Control Act, 1958 from two rooms, kitchen and bathroom of property No.478, Gali Pahar Wali, Quresh Nagar/Qasabpura, Sadar Bazar.

3. One of the contentions raised by the learned counsel for the petitioner, in the affidavit filed in support of the leave to defend application is that respondent is the owner and in possession of property No.7461, Madara Wali Gali, Chhoti Masjid, Qureshi Nagar, Sadar Bazar, Delhi, which has not been disclosed.

4. Learned counsel for the petitioner submits that the said address is also mentioned in the alleged *Ikrarnama* (rent agreement) filed by the respondent (page 111) as the address of the respondent.

5. Learned counsel for the petitioner further submits that the petitioner had filed a Suit for injunction against the husband of the respondent and had also specifically stated that the husband of the respondent was residing at Property No. 7461, Madara Wali Gali, Chhoti Masjid, Qureshi Nagar, Sadar Bazar, Delhi and service of summons was also effected at the said address.

6. He submits that in the written statement no objection was taken by the husband of the respondent that he does not reside in the said property and even in the affidavit filed in support of the written statement, the husband of the respondent had mentioned his residential address as 7461, Madara Wali Gali, Chhoti Masjid, Qureshi Nagar, Sadar Bazar, Delhi

7. Learned counsel for the respondent submits that inadvertently, it has been mentioned in the *Ikrarnama* (rent agreement) that the address of the respondent is 7461, Gali Chhoti Masjid, Qureshi Nagar,

Delhi. He further submits that the husband of the respondent was served at the said address as the two properties are opposite each other and inadvertently, in the affidavit filed in support of the written statement the address was mentioned as 7461, Madara Wali Gali, Chhoti Masjid, Qureshi Nagar, Sadar Bazar, Delhi, which was copied from the Memo of Parties of the Suit filed by the petitioner.

8. The question as to whether respondents have any connection with property No. 7461, Madara Wali Gali, Chhoti Masjid, Qureshi Nagar, Sadar Bazar, Delhi or not or have any portion of the said property in their possession, as alleged by the petitioner, becomes a triable issue and in case the petitioner is able to prove that they are owners and in possession of the said property then there is a possibility that the eviction petition filed by the respondents may be dismissed.

9. Since the petitioner has been able to show that a triable issue arises and that in the affidavit in support of the leave to defend has pleaded facts, which, if proved, would disentitle the respondent landlord from an order of eviction, I am of the view that the Rent Controller has erred in declining to grant leave to defend the eviction petition to the petitioner.

10. In view of the above, leave to defend the eviction petition is granted to the petitioner.

11. List the eviction petition before the concerned Rent Controller

on 20.02.2020, on which date petitioner shall file his written statement before the Rent Controller.

12. Keeping in view the facts and circumstances of the case, the Rent Controller is directed to expedite the proceedings and endeavour to conclude the same preferably within a period of one year from the next date fixed before the Rent Controller.

13. Petition is accordingly allowed in the above terms.

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

JANUARY 14, 2020
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SANJEEV SACHDEVA, J