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

Date of Decision : 24.02.2021

+ **CM(M) 162/2021**

SH. DEV CHAND JAIN

..... Petitioner

Through: Ms. Shalini Kapoor, Ms. Sukriti Mago, Mr. Dikshant Khanna & Mr. Sangram Singh, Advs. (M-9810160155).

versus

SUKESH CHAND GUPTA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

CM APPL. 7488/2021 (Exemption)

Allowed, subject to all just exceptions.

CM(M) 162/2021 & CM APPL. 7487/2021

1. This petition has been filed challenging the order dated 19.09.2020 passed by the learned Rent Control Tribunal in RCT No. 126/2016, allowing the appeal of the respondent herein in challenge to the order dated 22.08.2015 of the learned Additional Rent Controller, which in turn had dismissed the Eviction Petition filed by the respondent herein filed under Section 14(1)(a) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the 'Act').

2. The learned counsel for the petitioner submits that the learned Rent Control Tribunal has failed to appreciate that on receipt of the demand notice dated 24.03.2006 from the respondent, the petitioner had tendered the full amount of the legally recoverable rent alongwith 15% interest per annum thereon by way of a Money Order. On refusal of the respondent to accept the same, the petitioner had deposited the legally recoverable rent under Section 27 of the Act, albeit with some delay. The deposit was made even prior to the filing of the Eviction Petition by the respondent. She submits that in the peculiar facts of this case, the ratio of the judgment of the Supreme Court in ***Sarla Goel and Ors. vs. Kishan Chand***, MANU/SC/1131/2009, has been wrongly applied by the learned Rent Control Tribunal, inasmuch as it is not the case where rent under Section 27 was not deposited by the petitioner.

3. I find no merit in the submission made by the learned counsel for the petitioner. Though the petitioner claims to have tendered the full amount of legally recoverable rent alongwith interest thereon in his reply dated 17.04.2006 to the legal notice of the respondent, even today, the petitioner is not in a position to confirm if the deposit made by the petitioner under Section 27 of the Act was of the full amount of the rent legally recoverable from him alongwith interest thereon as is the requirement of Section 26 and 27 of the Act. In absence thereof, no benefit could have been obtained by the petitioner by making partial deposit under Section 27 of the Act, and the requirement of Section 14(1)(a) of the Act was made out against the petitioner. The learned Rent Control Tribunal has also observed the same in the

Impugned Order. The relevant findings of the learned Rent Control Tribunal in this regard are reproduced hereinbelow:-

“....It is also pertinent to mention here that the respondent/tenant in his cross examination recorded on 08.07.2015 has admitted that the rent was due w.e.f. 01.04.2003. The respondent/tenant also admitted that the rent was deposited in September 2006. It is also pertinent to mention here that in the cross examination, the respondent admitted that by the said money order he had sent the rent which was due as per his calculation and therefore, he neither admitted nor denied that entire arrears of rent including interest as demanded vide demand notice dated 24.03.2006 was not sent by him by the money order sent after the notice dated 24.03.2006. It is a matter of record that the rent was deposited u/S 27 DRC Act for the period 01.08.2003 to 30.04.2006 @ Rs.25/- pm and w.e.f. 01.05.2006 to 30.09.2006 @ 27.50/- pm vide DR application Ex.PW1/R1. Thus, the respondent/tenant in his cross examination neither admitted nor denied that whether the whole arrears of rent was tendered through money order. Respondent/tenant has also stated in the cross examination that he cannot say that rent was for the months of April, May, June and July 2006 has not been paid/deposited till date. It also came on record that the rent only from 01.08.2003 onwards was deposited in September 2006.”

4. The above findings, which clearly highlight the discrepancy in the claim of the petitioner regarding due tender and thereafter deposit of rent, could not be challenged by the learned counsel for the petitioner. I, therefore, find no infirmity in the Impugned Order passed by the learned Rent Control Tribunal.

5. The petition is dismissed. There shall be no order as to cost.

NAVIN CHAWLA, J

FEBRUARY 24, 2021/rv

