

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

% **Date of decision: 5<sup>th</sup> October, 2021**

+ **CM(M) 640/2021 & CM No.33116/2021 (stay)**

RAM CHARAN AGGARWAL (D)  
THROUGH LR

..... Petitioner

Through Mr. Darpan Wadhwa, Senior  
Advocate with Mr. Amandeep Singh,  
Advocate

versus

PREM LATA & ANR.

..... Respondents

Through Mr. Ashish Dholakia, Senior  
Advocate with Mr. Akash Panwar and  
Mr. Ankit Banati, Advocates

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**JUDGMENT**

**[VIA VIDEO CONFERENCING]**

1. The present petition under Article 227 of the Constitution of India has impugned the order dated 16th September, 2021 passed by the Rent Controller, Tis Hazari Courts, Delhi in RC ARC 479653/2016 on the ground that the printout from the website of the Court shows that the leave to defend application filed by the petitioner in respect of the eviction petition filed under Section 14(1)(e) of the Delhi Rent Control Act, 1958, (DRC Act), has been dismissed, however, the judgment had not been made available.
2. On 22<sup>nd</sup> September, 2021, notice was issued in the present petition on the submission of the petitioner that despite the fact that the website of the

District Court shows that the present leave to defend application has been dismissed, the judgment was not made available. The operation of the impugned judgment was stayed only on account of its non-availability.

3. Today, learned senior counsel appearing on behalf of the respondents submits that the impugned judgment of the Rent Controller has been obtained by him on 22<sup>nd</sup> September, 2021, itself, the date on which notice was issued in the present petition. It is contended that the said judgment was pronounced in open court on 16<sup>th</sup> September, 2021 and merely because the same was uploaded few days later would not be a ground for the petitioner to file the present petition on the ground that the judgment was not in existence, as has been stated in the present petition. There is nothing extraordinary about the judgment being uploaded few days after it was pronounced in open court. This is all the more relevant in the present case where the statute itself gives six months time period before the recovery of possession could be made by the landlord from the tenant. Therefore, petitioner should have waited for a few days for the certified copy of the judgment to be made available before rushing to this Court.

4. Learned senior counsel appearing on behalf of the petitioner has relied upon the order dated 11<sup>th</sup> December, 2020 of the Supreme Court in Civil Appeal No.4022/2020 titled ***Oriental Insurance Co. Ltd. vs. Zaixhu XIE & Ors.*** to contend that the judgment pronounced in open court should be made available on the same date or immediately thereafter. It is submitted that as was done by the Supreme Court in the aforesaid case, the impugned order may be set aside and the matter may be remanded back for reconsideration.

5. In the above said case before the Supreme Court, the operative

portion of the judgment of the High Court was announced in open court on 31<sup>st</sup> July, 2019. However, the judgment was uploaded on 15<sup>th</sup> May, 2020 after 9½ months. There cannot be any quarrel with the proposition that orders pronounced by a Judge in open court should be immediately made available to the parties so that the party aggrieved with the said order may invoke legal remedies against the said order. In the present case, admittedly the judgment was pronounced in open court on 16<sup>th</sup> September, 2021 and leave to defend application filed on behalf of the petitioner was dismissed. The certified copy of the said judgment was made available on 22<sup>nd</sup> September, 2021. Though there may have been some delay in making the judgment available, the magnitude of the delay was not such so as to be covered within the ambit of the directions of the Supreme Court in ***Oriental Insurance Co. Ltd.*** (supra)

6. Further, in the present case, no prejudice has been caused to the petitioner by a delay of few days in making the judgment available. In this regard reference may be made to Section 14(7) of the DRC Act, which is set out herein below:

***“Section 14. Protection of tenant against eviction***

xxx

xxx

xxx

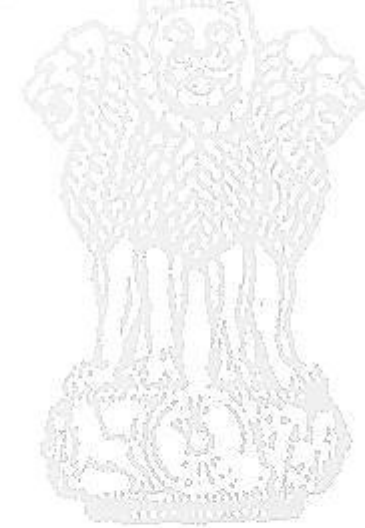
*(7) Where an order for the recovery of possession of any premises is made on the ground specified in clause (e) of the proviso to sub-section (1), the landlord shall not be entitled to obtain possession thereof before the expiration of a period of six months from the date of the order.”*

7. Taking into account that Section 14(7) of the DRC Act itself provides for a period of six months before the said eviction order could be enforced against the petitioner/tenant, even if there was few days delay in uploading the said order or certified copy being made available, no prejudice was caused to the petitioner. The petitioner should have waited for a reasonable period of time for the judgment to be made available and challenged the same on merits. Instead, the present petition has been filed casting aspersions on the conduct of the Rent Controller. The present petition is an abuse of the process of law and is dismissed with costs of Rs. 25,000/-.

**AMIT BANSAL, J.**

**OCTOBER 05, 2021**

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