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

Date of decision: 14.09.2023

+ CM(M) 1489/2023 & CM APPL. 47334/2023

SUDARSHAN KUMARI

..... Petitioner

Through: Mr. Rajesh Baweja, Advocate

versus

SUMAN JAIN

..... Respondent

Through: Mr. Sanjeet Singh, Advocate

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 47335/2023 (For Exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1489/2023 & CM APPL. 47334/2023

1. This petition filed under Article 227 of the Constitution impugns the order dated 05.08.2023 passed by SCJ/RC (South) Saket Courts, New Delhi ('Trial Court') in RC ARC 272/2021, titled as *Suman Jain v. Sudarshan Kumari*, dismissing two (2) applications filed by the Petitioner i.e., (i) application under Order VI Rule 17 of the Code of Civil Procedure, 1908 ('CPC') read with Section 151 CPC for bringing on record the subsequent events by way of amendment of the leave application/permission to file additional leave affidavit and (ii) application for recalling/review of the order dated 23.01.2023 whereby right to file the rejoinder was closed.

2. At the outset, learned counsel for the Petitioner states that he is not



challenging the impugned order in so far as it dismisses the application filed under Order VI Rule 17 read with Section 151 CPC, in view of the fact that the leave to defend filed on 23.11.2021 has been taken on record.

2.1. He states that he is only pressing the dismissal of the application, whereby, his right to file the rejoinder was closed.

3. During the course of arguments, learned counsel for the Petitioner has stated that in his rejoinder, he seeks to bring on record the fact that the Respondent, landlady has filed eight (8) separate petitions for eviction against other tenants in adjoining shops located on the same floor and in the same building; and has obtained possession of the said shops, which vacant shops are not being used by her till date.

3.1. He further states that the Respondent is presently as well letting out the open area in front of these shops for the purposes of 'Patri' and charging fee from the users, which belies the pleas of bona fide need.

4. In reply, learned counsel for the Respondent states that the aforesaid pleas of the tenant with respect to eviction petitions/ eviction orders and obtaining of the vacant possession of few shops has been duly disclosed by the Respondent, landlady in her eviction petition.

4.1. He states that the allegation of the Petitioner, as regards the alleged non-use of the shops and the 'patri' already finds mention in the leave to defend filed by the Petitioner and therefore, no just ground has been made out for filing the rejoinder.

4.2. He further states that it is the matter of record that the leave to defend in this case was filed on 23.11.2021 and the reply to the said leave to defend was also filed by the Respondent, landlady on 01.08.2022.

4.3. He states that the matter is next listed before the Trial Court for



arguments on 16.09.2023 and the present petition filed on the eve today is only a means to delay the said proceedings.

5. In response, learned counsel for the Petitioner states on instructions that he will file his rejoinder on or before 16.09.2023; not seek any adjournment before the Trial Court on 16.09.2023 or thereafter and he will further pay reasonable costs to the Respondent for the delay caused in filing the rejoinder.

6. This Court has considered the submissions of the parties and perused the record.

7. In the interest of justice and with the consent of the parties, the Petitioner herein is granted permission to file his rejoinder on or before 16.09.2023 before the Trial Court. The copy of the rejoinder will be served by e-mail on the counsel for the Respondent on or before 06:00 PM on 15.09.2023 and costs of Rs. 10,000/- will be paid by the Petitioner to the Respondent on or before 16.09.2023.

8. The statement of the Petitioner that no adjournment will be sought on 16.09.2023 or thereafter is taken on record and she is bound down to the same.

9. With the aforesaid directions, the present petition is disposed of. Pending applications stand disposed of.

10. The digitally signed copy of this order, duly uploaded on the official website or the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 14, 2023/rhc/sk

[Click here to check corrigendum, if any](#)