



2023:DHC:8790



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Order: 06.12.2023*+ **RC.REV. 324/2023 and CM Nos.59753/2023, 59754/2023 and 62835/2023****JITENDER MADAN**

..... Petitioner

Through: Ms. Akanksha Kaul and Mr. Sajan
Shankar Prasad, Advocate

versus

SURINDER KUMAR CHHABRA & ANR. Respondents

Through:

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****[Physical Hearing/Hybrid Hearing]****TARA VITASTA GANJU, J.: (ORAL)**

1. The present Petition has been filed by the Petitioner impugning the order dated 19.04.2023 [hereinafter referred to as "Impugned Order"] passed by the learned SCJ-cum-RC, Central District, Tis Hazari Courts, Delhi with respect to the premises i.e., Shop No. 1601, Phatak Misri Khan, Main Bazar, Pahar Ganj, New Delhi-110055, wherein the right to file an Application for Leave to Defend/Contest of the Petitioner (Respondent No.2 before the Trial Court) was closed.

2. Learned Counsel for the Petitioner contends that firstly, the name of Petitioner was incorrectly mentioned in the Eviction Petition filed by the Respondents/landlords as "Jitan Madan" instead of "Jitender Madan". Reliance in this regard is placed on the order dated 12.01.2023 of the Trial



Court wherein these submissions of the Respondents/landlords are recorded and a submission is made by the learned Counsel for the Respondents/landlords that an amended memo of parties would be filed.

2.1 Secondly, it is contended that the Petitioner had appointed a new Counsel and a request was made on 19.04.2023 for a copy of the Eviction Petition. However, by the Impugned Order this request was declined on that date and the right to file the Application for Leave to Defend by the Petitioner was closed since more than 15 days had lapsed after a copy of the Eviction Petition was supplied to the Petitioner through his previous Counsel on 12.09.2023.

2.2 Learned Counsel for the Petitioner/tenant contends that a statement was made on 12.01.2023 by the Petitioner's previous Counsel that Petitioner herein would adopt the Application for Leave to Defend/Contest filed by his brother [Respondent No.1 in Eviction Petition]. Even the adoption of the statement made by the Petitioner has not been permitted by the Impugned Order.

3. Learned Counsel for the Petitioner further submits that the Application for grant of Leave to Defend/Contest is pending adjudication before the Trial Court at present.

4. After some arguments, learned Counsel for the Petitioner submits that the Petitioner would be satisfied if the Petitioner (Respondent No.2 before the Trial Court) is given an opportunity to address arguments during the hearing on the basis of the Application for Leave to Defend filed by his brother Naveen Madan, which is already available on the record of the Trial Court.

5. The Impugned Order passed on 19.04.2023 has clearly been passed



with a view to expedite the proceedings. However, given the fact that the Petitioner has restricted his prayer to only addressing arguments before the Trial Court and in view of the statement made by the Counsel for the Petitioner that arguments in the Trial Court on the Application for Leave to Defend/Contest have not even commenced, this Court deems it expedient to direct that one opportunity be granted to the Petitioner to address arguments during the hearing before the Trial Court.

6. It is, however, made clear that:

(i) The Petitioner shall be granted only one opportunity to address his arguments before the Trial Court and no adjournment shall be sought by him before the Trial Court, and

(ii) The arguments of the Petitioner shall be on the basis of the Application for Leave to Defend/Contest filed by the brother of the Petitioner, i.e. Naveen Madan.

7. It is made clear that nothing contained herein is an expression on the merits of the case.

8. Petition is accordingly disposed of. Pending applications shall stand closed.

9. File be consigned to Record.

10. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

DECEMBER 06, 2023/ yg

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