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

Date of decision: 29.11.2023

+ **CM(M) 1957/2023**

MUKESH KUMAR

..... Petitioner

Through: Mr. Kunal Kalra, Adv.

versus

MOHD. JAMAL AND ORS

..... Respondents

Through: Mr. Rajesh Bhatia and Mr. Hemant
Kakkar, Advs for Res Nos. 1 to 3.

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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. 61336/2023

1. Exemptions allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 1957/2023 & CM APPL. 61335/2023

3. This Petition impugns the order dated 21.10.2023 passed by the Additional Rent Controller – 01, Central District, Tis Hazari Court, Delhi in RC/ARC No. 77667 of 2016 ('Trial Court') whereby the Trial Court vide impugned order dismissed the application filed by Respondent No.4 i.e., Custodian of Enemy Property for India under Order 1 Rule 10 of Civil Procedure Code, 1908 ('CPC').

3.1. The Petitioner before this Court is the tenant and Respondent Nos. 1



to 3 are the owner and landlord of the tenanted premises bearing no. 1805-1806, Bazar Turkman Gate, Delhi ('tenanted premises')

4. It is admitted on record that the Petitioner herein has been tendering rent to the Respondent Nos. 1 to 3, and, therefore, the relationship between the parties of landlord-tenant stands acknowledged and established.

4.1. The Respondent Nos. 1 to 3 have filed an eviction petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 praying for eviction of the Petitioner i.e., the tenant from the tenanted premises on the ground of bonafide requirement and after conclusion of evidence, the matter is now at the stage of final arguments.

5. In the considered opinion of this Court, the Petitioner herein has no locus to maintain this Petition as he was not the applicant before the Trial Court.

6. In any event, the Trial Court by a reasoned order has dismissed the application and the same suffers from no infirmity. The relevant portion of the order reads as under:

"Pertinently, present is an eviction petition filed under Section 14 (1) (e) of the DRC Act. It is a settled position of law that in eviction proceedings u/s 14 (1) (e) of DRC Act, absolute ownership is not required to be proved and the only thing to be proved is that the person seeking eviction of the tenant has a better title than the tenant. Therefore, the issue of absolute ownership over the tenanted premises is not a matter of trial in the proceedings herein which are being conducted under the DRC Act. The only thing to be established by the petitioners is that they are the landlords and the respondent is their tenant. The issue of ownership over the tenanted premises, if any, is inter-se between the petitioner and the applicant/Custodian Department. Moreover, in the application in hand it has not even been pleaded by the applicant that the respondent is its tenant. Thus, this court is of the view that applicant is neither a necessary nor a proper party to the present petition."

(Emphasis Supplied)

7. Even before this Court, the Petitioner herein admits that he was not



inducted as a tenant in the tenanted premises by the Custodian of Enemy Property for India but by the Respondent Nos. 1 to 3.

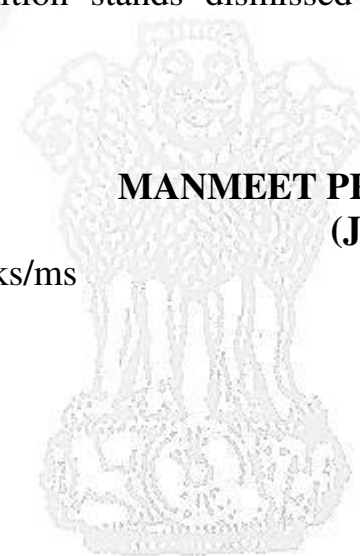
8. In view of the above, this Court finds no merit in this Petition and the same is accordingly dismissed.

9. It is, however, clarified that the right, if any, of the Custodian of Enemy Property of India against Respondent Nos. 1 to 3 will not be affected by this order and the same shall be decided by the appropriate forum in accordance with law.

10. According, the petition stands dismissed along with the pending applications

MANMEET PRITAM SINGH ARORA
(JUDGE)

NOVEMBER 29, 2023/aks/ms



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