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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 87/2023 & CM APPL. 14017/2023**
NAVEEN MEHTA & ANR.Petitioners
Through:

versus

PANKAJ SHARMARespondent
Through: Mr. Aryan Panwar, Mr. Varun
Shankar and Mr. Anand Bhushan,
Advocates

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **09.08.2024**

1. The present petition is filed under section 25B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as “the Act”) to impugn the order dated 15.11.2022 passed by the court of Sh. Deepak Vats, ACJ-cum-CCJ-cum-ARC, South East District, Saket Courts, New Delhi in eviction petition bearing RC ARC no.35/2022 titled as **Pankaj Sharma V Naveen Mehta**.

2. The respondent filed an eviction petition under section 14(1)(e) read with section 25-B of the Act on the ground of *bona fide* need against the petitioners. The summons were ordered to be issued as per the Third Schedule of the Act and the petitioners despite service of summons on 28.10.2022 did not prefer an application for leave to defend. Accordingly, the trial court vide impugned order dated 15.11.2022 passed an eviction order under section 14(1)(e) of the Act. The relevant portion of the impugned order dated 15.11.2022 reads as under:-

3. Vide order dt. 16.09.2022 summons under Schedule III of DRC Act were issued upon the respondents. Report was filed by



Ahlmad that both the respondents were served on 28.10.2022. Section 25 B of the DRC Act provides that tenant shall not contest the prayer for eviction unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtain leave from the Controller. Such leave to contest has to be sought within 15 days from the service of summons i.e. within 15 days from 28.10.2022 in the present case. The period of 15 days has already elapsed and the respondent has not filed any application seeking leave to defend the present petition. Since, such leave has not been sought within 15 days, the assertions made by the petitioner shall be deemed to be admitted by the respondents and the petitioner shall be entitled for order for eviction on said grounds.

4. Ld. counsel for respondents has sought condonation of delay in filing application seeking leave to defend and has sought sometime to file the application. Hon'ble Supreme Court in the case "Prithipal Singh V Satpal Singh (dead) through its LRs.(2010) 2 SCC 15", has held that the delay in filing the application seeking leave to defend cannot be condoned and the time for filing leave to defend application cannot be extended. Thus, prayer of counsel for respondents to extend time is declined.

5. Accordingly, the respondents are deemed to have admitted that the petitioner is the owner of the tenanted premises and that their exists the relationship of landlord-tenant between the parties. Respondents are also deemed to have admitted that the petitioner requires the tenanted premises for bonafide need of his daughter who is dependent upon him.

6. In the light of aforesaid discussions, the eviction petition U/s 14 (1) (e) of the DRC Act is allowed and the eviction order is passed U/s 14 (1) (e) r/w Section 25 B of the DRC Act in favour of the petitioner and against the respondents in respect to tenanted premises i.e. Shop no.5 of plot no.14-15, Sharma Market, Pul Pehladpur, New Delhi-110044. It is made clear that the petitioner shall not be entitled to get the eviction order executed before the expiry of six months running from today.

7. The petition stands allowed. File be consigned to Record Room after due compliance.



3. The counsel for the petitioners during the course of the arguments referred the contents of the petition. However, the petitioners have not filed application for leave to defend as well as application for condonation of delay in filing the application for leave to defend. There is no infirmity in the impugned order dated 15.11.2022 passed by the trial court.

4. Accordingly, the present petition is dismissed along with pending application.

DR. SUDHIR KUMAR JAIN, J

AUGUST 9, 2024/j/ak