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

+ **RSA 52/2022**

SH. AJAIB SINGH

.....Appellant

Through: Mr. B. K. Singh and Mr. Santosh
Kumar Yadav, Advs.

versus

SH. RAJ KUMAR SHARMA

.....Respondent

Through: Mehak Nakra, ASC, GNCTD with
Mr. Aditya Goyal, Adv. for R-1, 2 &
5.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

05.12.2024

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1. Heard learned counsel appearing for the appellant on admission.
2. By way of the instant appeal, the appellant is challenging the legality and validity of the judgment and order dated 26.03.2022, passed in MCA No. 24/2019, titled "*Raj Kumar Sharma vs. Ajaib Singh*" by the Court of Additional District Judge, North West, Rohini Courts, Delhi.
3. The Court takes note of the findings rendered by the first Appellate Court in paragraph no.12, which, *inter alia*, states that the Trial Court ought to have decided the issue of applicability of Section 50 of the Delhi Rent Control Act, 1958, and then only should have proceeded to decide the controversy on merit.
4. The first Appellate Court held that the Trial Court should have first adjudicated on issue No.1 concerning its jurisdiction, before passing the



eviction order. It was also held that the Trial Court order was passed in haste, rendering it *non-est* and, therefore, liable to be set aside. The findings rendered by the first Appellate Court in the aforementioned paragraph read as follows: -

“12. If it is found, on a trial on the merits so far as this issue No.1 of jurisdiction goes, that the facts alleged by the plaintiff are not true and the facts alleged by the defendants are true, and that the case is not cognizable by the court. It is found that present suit is barred by Sec.50 of DRC Act, it is not cognizable by the civil court including the Ld. Trial Court, the plaintiffs’ suit will have to be dismissed in its entirety. Therefore, Ld. Trial Court should have first decided the issue no.1 which is regarding its jurisdiction and only after that should have passed the eviction order. The impugned order was passed by Ld. Trial Court in haste and is non est and, therefore, liable to be set aside.”

5. In light of the aforesaid, the Court finds that the findings rendered by the first Appellate Court are unassailable. Therefore, no substantial question of law has arisen for adjudication in the instant appeal.

6. Learned counsel appearing for the appellant, however, submits that before the Trial Court, an application for deletion of the issues was also filed. Let all those aspects be looked into by the Trial Court.

7. Keeping in mind the aforesaid facts and circumstances, the Court directs that the Trial Court to decide the suit within a period of six months from the date of receipt of a copy of the order passed today.

8. Accordingly, the instant appeal stands disposed of.

PURUSHAINDR KUMAR KAURAV, J
DECEMBER 5, 2024/p/mjo