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

+ **CM(M) 2339/2024**

M/S GEETA PRESS

..... Petitioner

Through: Mr. Alok Kumar, Sr. Adv. with Ms.
Manisha A. Narain, Mr. Amit Kumar
Singh, Mr. Manan Soni and Mr.
Pawan Kumar Saini, Advs.

versus

MADHU RASTOGI

..... Respondent

Through: Mr. Rajesh Baweja, Adv.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

15.04.2024

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CM APPL. 21852/2024—Exp.

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

CM(M) 2339/2024, CM APPL. 21851/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 04.04.2024 passed by the learned Senior Civil Judge-cum-Rent Controller, Central District, Delhi (“Trial Court”) in case bearing no. RC ARC No. 274/19 titled as “*Madhu Rastogi vs. Geeta Press*” whereby the application moved on behalf of the petitioner under Order XIX Rule 3 of the Code of Civil Procedure, 1908 (“CPC”) was dismissed. The petitioner herein is the respondent before the learned Trial



Court.

4. Learned Senior Counsel for the petitioner submits that the respondent in April, 2019 filed an application under Section 14(1)(e) of the Delhi Rent Control Act, 1958 seeking eviction of petitioner/tenant before the learned Trial Court. Petitioner also filed an application seeking leave to defend thereto however, the learned Trial Court vide order dated 09.07.2021 dismissed the leave to defend application. Thereafter, revision petition against the said order was preferred and was dismissed by this court vide order dated 05.08.2021. Subsequently, the Hon'ble Supreme Court granted leave to defend to the petitioner vide order dated 31.08.2021 in Civil Appeal No. 5591/2021.

5. Learned Senior Counsel for the petitioner further submits that the respondent filed examination-in-chief by way of affidavit of two other witnesses i.e. her husband Rajiv Rattan Rastogi PW2 and her son Shivam Rastogi as PW3. Thereafter, the petitioner filed an application under Order XIX Rule 3 read with section 151 CPC seeking rejection of said evidence affidavits on ground of non-compliance of Order XIX Rule 3 CPC. Respondent also filed reply to the application and subsequently, the learned Rent Controller dismissed the application of the petitioner vide the impugned order.

6. Learned Senior Counsel submits that various submissions were raised in respect of the two affidavits filed on behalf of respondent i.e. PW-2 and PW-3. Learned counsel submits that apart from making submissions, various judgments were also cited, however, the learned Trial Court has not taken account of submissions and has not examined the law, which were cited. Learned counsel further submits that in one line, the Court has



dismissed the application by imposing cost on the petitioner.

7. Mr. Rajesh Baweja, learned counsel for the respondent appears on advance notice, accepts notice and submits that the petitioner has concealed material facts from this Court that the affidavits were filed a year back and same have been tendered in examination-in-chief and have also been partly cross-examined. Therefore, at this stage, the application under Order XIX Rule 3 CPC has been filed malafidely by the petitioner herein.

8. Learned counsel for the respondent further submits that the application before the learned trial court and as well as the present petition have been filed merely to delay the proceedings of the case, this also goes to show the delay tactics adopted by the petitioner to further delay the proceedings as this is the petition filed under Section 14(1)(e) CPC seeking eviction of the petition.

9. Apart from hearing the arguments, the record including the impugned order as well as the application under Order XIX Rule 3 read with section 151 CPC have been perused.

10. Pertinent to note that the learned Trial Court has disposed of the application by mentioning :

“Ld. Counsel for the respondent has moved an application under Order 19 Rule 3 of the CPC. Reply filed. Copy supplied. Arguments heard. Record perused.

*I find no merits in the application, dismissed with cost of Rs.500/- to be paid to the petitioner.
Application at hand is disposed off.”.*

11. On bare perusal of the impugned order, it appears that the learned Trial Court has passed a non-speaking order, which apparently is cryptic and



obscure. Moreso, it doesn't record any of the submissions made by the parties as well as the judgements that they have relied upon, it does not seem to have been dealt by the learned Trial Court while hearing the said application. Thus, the impugned order has been passed in a very casual manner.

12. In these circumstances, impugned order dated 04.04.2024 is hereby set aside.

13. From the record, it is clear that next date of hearing before the learned Trial Court is 03.05.2024.

14. Learned counsel for the respondent submits that proceedings have been sufficiently delayed and hearing of application on said date of hearing would further delay the proceedings before the learned Trial Court.

15. Under these circumstances, learned Trial Court is directed to rehear the application moved on behalf of the petitioner under Order XIX Rule 3 CPC on 18.04.2024, which date is convenient to both the learned counsels and to pass a reasoned order within a week thereafter.

16. With above observations, petition stands disposed of.

17. Copy of order be given *dasti* under the signature of Court Master, as prayed.

SHALINDER KAUR, J.

APRIL 15, 2024/ss