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

+ **CRL.M.C. 5972/2023**

PRABHAKAR POKHRIYAL

..... Petitioner

Through: Ms. Mrinalini Sen Gupta, Advocate
versus

SURENDER SINGH CHEEMA & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **15.02.2024**

CRL.M.A. 4944/2024 (E.H. by petitioner)

1. By way of present application filed under Section 482 Cr.P.C., the petitioner seeks early hearing of the present petition.
2. For the reasons stated in the application, the same is allowed and the matter is taken up for consideration today itself.
3. Application is disposed of.
4. Date of 06.05.2024 stands cancelled.

CRL.M.C. 5972/2023

1. By way of present petition filed under Article 227 of the Constitution of India read with Section 482 Cr.P.C., petitioner seeks to assail the order dated 12.04.2023 passed by learned Principal District and Sessions Judge, South District, Saket District Court, New Delhi in MCA No.7/2021, whereby the appeal filed by the petitioner under Section 341 Cr.P.C. came to be dismissed.
2. The facts in nutshell are that the petitioner, a tenant, was facing proceedings in a suit for possession, recovery of arrears of rent and mesne profit. In the said proceedings, the respondent/landlord examined himself



and two other witnesses. The suit was decreed in favour of the landlord and against the present petitioner. However, during the pendency of those proceedings, the petitioner preferred an application under Section 340 Cr.P.C. against the two witnesses, who had deposed in favour of the landlord. At the time of decreeing the suit, the said application also came to be dismissed vide a separate order of even date, wherein the trial court dismissed the said application. Notably, the appeal filed against the judgment of eviction has been dismissed and during the course of hearing, it has been informed that possession has been handed over in the execution proceedings.

3. One of the grounds raised in the application was that PW-2 had claimed his vocation differently at two different instances i.e., in the present proceedings, he claimed to be engaged in the business of providing rental accommodation to prospective tenants however, in a subsequent proceeding, in an ATR submitted by the I.O., he claimed himself to be an electrician. Insofar as PW-3 is concerned, it was alleged that he had placed a document (Mark-A) on record, which bore signatures of the tenant however, in another collateral proceedings, when the same document was placed on record, it had signatures of both the tenant and the landlord. An explanation was given that the former was a photocopy of the document and [hat the document was prepared at two stages and that the signatures were put subsequently, before it was filed in the collateral proceedings. While accepting the explanation, the appeal came to be dismissed. It was observed that the mere mentioning of different professions in two different proceedings by PW-2 cannot be a ground for initiation of proceedings under Section 340 Cr.P.C. The explanation offered by the learned counsel for the respondent appearing



before the courts below on document (Mark-A) was found sufficient and satisfactory.

4. In view of above, I find no ground to entertain the present petition. Accordingly, the same is dismissed alongwith the pending application.

5. At this stage, learned counsel for the petitioner submits that in para 7 of the impugned order, it has been directed that legal aid be not provided to the petitioner for having misused the same. In the interest of justice, this Court deems it appropriate to set aside the said directions.

MANOJ KUMAR OHRI, J

FEBRUARY 15, 2024

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