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IN THE HIGH COURT OF DELHI AT NEW DELHI
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+ CM(M) 3090/2024
SHRI ROHIT BODHRAJA & ANR.

.....Petitioner

Through: Mr. S C Singhal, Advocate.
versus

AVTAR KUMAR GROVER & ORS.

.....Respondent

Through: Mr. Vibhor Bagga with Mr. Abbas,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM(M) 3090/2024&CM APPL. 61862/2024

1. This petition was taken up by this Court on 02.08.2024 and the following order was passed:-

- “1. Issue raised in the present petition is very precise.*
- 2. Petitioner is a tenant who is defending eviction petition which has been filed by the respondent herein under Section 14 (1)(a) and under Section 14 (1)(e) r/w Section 25B of Delhi Rent Control Act.*
- 3. Undoubtedly, the procedure prescribed for consideration of such eviction petition is different as with respect to eviction sought on the ground of bonafide requirement, it is the summary procedure which kicks in.*
- 4. However, when the summons were issued to the tenant herein, it was issued as per prescribed format meant for summary proceedings whereas fact remains that at the time of issuance of summons on 23.03.2022, eviction petition was also for ground of non-payment of rent i.e. under Section 14 (1)(a) of Delhi Rent Control Act.*
- 5. The petitioner herein moved an application seeking review before the learned Trial Court praying therein that*



issuance of process under Third Schedule was not maintainable and, therefore, the petition be treated as an ordinary petition and should not be permitted to be taken in a summary manner.

6. During the course of further proceedings, learned counsel for landlord made a statement before the learned Rent Controller that he was withdrawing his claim with respect to ground mentioned under Section 14 (1)(a) of Delhi Rent Control Act and, therefore, the review application was dismissed and the matter was fixed for hearing of arguments on leave to defend.

7. During course of arguments, Mr. Singhal, learned counsel for petitioner/tenant has submitted that after the aforesaid ground was dropped, ideally, the Court should have directed issuance of fresh summons to avoid any kind of confusion and complexity but the dropping of the eviction ground at a subsequent stage cannot relate back with the earlier erroneous issuance of summons.

8. No one appears on advance notice.

9. Issue notice to respondents through all permissible modes.

10. Next date before the learned Trial Court is stated to be 09.09.2024. Learned Trial Court is requested to defer the hearing to a date subsequent to the date given by this Court.

11. List on 27.09.2024.

12. Copy of the order be given dasti under the signatures of the Court Master.”

2. The present application has now been moved from the side of respondent-landlord whereby it has been prayed that the stay be vacated or else fresh period of 15 days be given to the petitioners herein to file additional affidavit seeking leave to defend with liberty to the landlord to file reply to the above said additional affidavit, if any.

3. Mr. S C Singhal, learned counsel for petitioner has joined the proceeding through *video conferencing* and he has no objection to the above said proposal and undertakes to file additional affidavit seeking leave to



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defend within 15 days to be reckoned from today.

4. In view of the above, the present petition stands disposed of while directing the petitioner herein to file additional affidavit seeking leave to defend itself within 15 days from today.

5. The petition stands disposed of with the aforesaid direction.

6. The next date stands cancelled.

(MANOJ JAIN)
JUDGE

OCTOBER 21, 2024/sw