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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 53/2024, CM APPL. 9579/2024, CM APPL. 9580/2024 &
CM APPL. 9581/2024

RAJ KUMAR & ANR.Petitioners
Through: Mr. Ankit Patel, Advocate for R-2

versus

KISHAN CHAND GUPTARespondent
Through: Mr. Amit Gupta, Advocate

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

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16.08.2024

1. The present revision 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 03.04.2023 passed by the court of Sh. Santosh Kumar Singh, Senior Civil Judge-cum-Rent Controller, South District, Saket Courts, Delhi (hereinafter referred to as “**the trial court**”) in RC ARC bearing no. 7/21, titled as **Kishan Chand Gupta V Sunder Lal & Ors.**, whereby the application for leave to defend filed by the petitioners/tenants was dismissed (hereinafter referred to as “**the impugned order**”).
2. The respondent/landlord filed an eviction petition under section 14(1)(e) read with section 25B of the Act against the petitioner/tenant, on the ground of *bona fide* need. The petitioner/tenant, after service of summons as per the Third Schedule of the Act, filed an application for leave



to defend which was dismissed by the trial court vide the impugned order dated 03.04.2023, and as a consequence of which, an eviction order was passed in favour of the respondent/landlord.

3. The petitioner being aggrieved filed the present petition and stated that the petition be heard on merits.

4. The counsel for the respondent stated that the possession of the tenanted premises has been restored to the respondent in execution of warrant of possession in accordance with law, as such the present petition is not maintainable.

5. This Court in the judgment dated 26.07.2024 passed in RC.REV. 284/2023 titled as **Om Prakash Ashok Kumar & Sons V Shri Ajay Khurana** held as under:-

7. The issue which needs Judicial consideration is whether the revision petition which is filed as per section 25B (8) of the Act to impugn the order of eviction as per section 25B of the Delhi Rent Control Act and if during the pendency of the revision petition, the possession is restored back to the landlord/owner, whether, in that eventuality the revision petition is maintainable or not.

8. In N. C. Daga V Inder Mohan Singh Rana 2003 (1) SCC 453 the respondent/landlord filed the petition for eviction primarily on the ground of *bona fide* requirement which was opposed by the petitioners/tenant. The eviction order was passed as per section 14(1)(e) of the Act in favour of the respondent/landlord with the direction that the possession of the tenanted premises shall not be taken before the expiry of 06 months in terms of section 14(7) of the Act. The revision petition before the High Court of Delhi was also dismissed by holding that no prima facie case was made out by the tenant. The Supreme Court dealt with the arguments raised on behalf of the landlord that the petition has become infructuous because the possession has already been taken in pursuant to the execution of the order passed by the rent controller. The Supreme Court has observed that in view of the



admitted position that pursuant to the order passed by the rent controller, the possession has already been taken on execution of order permitting eviction did not examine the rival stand of the parties and accordingly dismissed the petition.

9. The Supreme Court in **Vinod Kumar Verma V Manmohan Verma & Anr.** in Civil Appeal No.5220-5221 of 2008 arising out of SLP (C) nos. 11268-11264/2008 vide order dated 19.08.2008 has also disposed of the appeals as infructuous as the possession of the tenanted premises was taken over by the landlord.

10. This Court in various decisions has followed the decision given by the Supreme Court in **N. C. Daga V Inder Mohan Singh Rana**. The Co-ordinate Bench of this Court in **Poonam Bangia V Harbhagwan Dass Chandiramani** in RC. REV. no.16/2021 vide order dated 22.07.2021 after following the law laid down in **N. C. Daga V Inder Mohan Singh Rana**, dismissed the revision petition after observing that the landlord has received the possession of the tenanted premises through execution proceedings. Another Co-ordinate Bench of this Court in **Mange Ram V Rajesh Narain Goel**, in RC. REV. no. 147/2021, decided on 19.03.2024 after following **N. C. Daga V Inder Mohan Singh Rana** and **Vinod Kumar Verma V Manmohan Verma & Anr.**, in Civil Appeal nos. 5220-5221/2008 passed by the Supreme Court and in **Poonam Bangia V Harbhagwan Dass Chandiramani** in RC. REV no. 16/2021 passed by this Court as mentioned hereinabove also dismissed the revision petition as became infructuous due to the reason that the possession of the subject premises has been restored to the respondent/landlord. The same view was also taken by another Co-ordinate Bench of this Court in **Ram Avtar V Anuradha Shukla** in RC. Rev. Bearing no. 104/2021 vide order dated 03.11.2023, the revision petition was ordered to be dismissed as the possession of the tenanted premises has already been taken by the respondent/landlord in accordance with law.

12. In the present case as reflected from the order dated 10.05.2024, the possession of the tenanted premises has already been restored back to the respondent/landlord in execution of warrant of possession in accordance with law. This Court is also of the view that the present petition is not maintainable. Accordingly, the present petition, along with pending applications



stands dismissed being infructuous.

6. The counsel for the petitioners on instructions from the petitioners seeks permission to withdraw the present petition

7. Accordingly, in view of the submissions made by the counsel for the petitioners, the present petition is allowed to be dismissed as withdrawn along with pending applications, if any.

DR. SUDHIR KUMAR JAIN, J

AUGUST 16, 2024

Sk/ak/abk