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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 14th October, 2024***
+ CM(M) 3599/2024 & CM APPL. 60128/2024 & CM APPL.
60129/2024

NITIN ARORA

.....Petitioner

Through: Mr. Mayank Mehandru with Ms.
Charu Tandon, Mr. Avinash Bahlla,
Mr. Siddhant Tandon, Mr. Nikhil
Kharaliya and Mr. Vidushi Singh,
Advocates.

versus

RITU SETH

.....Respondent

Through: Mr. Rajesh Bhatia, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner is defending an Eviction Petition filed by his landlady who seeks his eviction on the ground of *bonafide requirement*.
2. When application seeking leave to defend was filed by such tenant before the learned Trial Court on 05.04.2022, it was mentioned therein that the landlady had not disclosed the other accommodation /property available with her at Delhi and it was also averred that she was having other properties.
3. It seems that the documents to said effect were not placed on record and it was only, later on, that the tenant moved an application under Section 151 CPC seeking permission to place on record the additional affidavit along with



additional documents demonstrating the landlady being the owner of other properties i.e. 310 and 310A, Kucha Ghasi Ram, Chandni Chowk, Delhi.

4. Said application has been dismissed by learned Trial Court while observing that these documents should have been filed along with the application seeking leave to defend as these were already within the knowledge of the tenant and there was nothing to indicate that there was any subsequent acquisition, necessitating filing of fresh affidavit.

5. Learned counsel for the respondent/landlady appears on advance notice and submits that the tenant should have been careful and cautious enough and should have at the first available opportunity, submitted these documents before the learned Controller. According to him, these properties are not relevant in the present context as the requirement shown by the landlady is for her commercial needs and the above said two properties are residential in nature and, therefore, these, even otherwise, cannot be used for fulfilling her commercial needs.

6. During course of the arguments, learned counsel for the respondent stated that he does not want to delay the disposal of the above said application seeking leave to defend and, therefore, he would have no objection if these documents are referred to by the tenant at the time of arguments on his application seeking leave to defend. He, however, reiterates that these properties are not relevant in context of the Eviction Petition in question.

7. Keeping in mind the overall facts and circumstances of the case and also the concession given by the learned counsel for respondent, the petition is disposed of with direction that the learned Controller may consider above said two sale deeds also while hearing arguments on application seeking leave to defend.



8. Needless to say, it will be open to learned Controller to consider the relevancy and impact of the above said two properties stated to be available to the landlady in accordance with law.
9. It is clarified that this Court has not made any observation in this regard either way and, therefore, the learned Controller shall not get influenced by any of the observation made hereinabove.
10. The petition stands disposed of.
11. Order *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

OCTOBER 14, 2024/*sw*