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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 15th October, 2024***+ **CM(M) 3613/2024 & CM APPL. 60424-60426/2024****SH. ANIL KUMAR**

.....Petitioner

Through: Mr. Bipin Kumar Jha, Advocate

versus

RAJ KAMAL (SINCE DECEASED) THROUGH HIS LRS.

.....Respondent

Through: None

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)****CM APPL. 60425-60426/2024 (exemption)**

Exemption allowed, subject to all just exceptions.

CM(M) 3613/2024 & CM APPL. 60424/2024

1. Petitioner Mr. Anil Kumar is defending an eviction petition filed by his landlord Mr. Raj Kamal (since deceased) on the ground of bonafide requirement under Section 14(1)(e) r/w 25-B of Delhi Rent Control Act, 1958.
2. During pendency of the aforesaid eviction petition, the landlord died and accordingly, one application under Order XXII Rule 3 CPC was filed mentioning therein that he had left behind his two legal heirs i.e. Ms. Aakanksha Jain (daughter) and Mr. Abhishek Gupta (son). It was also mentioned that the right to sue survived in their favour and, therefore, they be substituted in place of deceased landlord.
3. Application was filed within the stipulated period of limitation.
4. The aforesaid application was resisted by the tenant who claimed that they were not the legal heirs of the deceased-petitioner and, therefore, their



names could not have been substituted.

5. It seems that during the course of arguments before the learned Controller, it was contended that said son was an “adopted son” of the deceased- petitioner and, therefore, the tenant insisted for production of “adoption deed”. However, such contention has been rejected and the legal representatives have been brought on record.

6. Such order is under challenge.

7. Order XXII Rule 3 CPC prescribes procedure in case of death of sole plaintiff or in case of death of one of the several plaintiffs and provides that on such death, the right to sue shall survive to the *legal representative* of the deceased-plaintiff.

8. It seems that learned counsel for petitioner has, somehow, caught between the two terms ‘legal representatives’ and ‘legal heirs’.

9. Words ‘legal representative’ have been defined under Section 2(11) of Civil Procedure Code, 1908 as under: -

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(11) “legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;

10. It is a not case where some stranger has been portrayed as son of the deceased-petitioner.

11. It is also not a case where some imposter is being brought in as legal representative.

12. If one goes through the averments made in the eviction petition, it would lay bare that in the petition itself, the landlord had claimed that



suit-shop, which is in possession of the tenant, was bonafidely required by landlord Mr. Raj Kamal for his son, namely, Mr. Abhishek Gupta. It was also claimed that said son of petitioner was running his shop from elsewhere but said shop had already been vacated for carrying out demolition work of the entire structure. He also claimed that his such son i.e. Mr. Abhishek Gupta was married and he also had the responsibility of his parents, his wife and children and his such son wanted to open showroom at the ground floor after raising fresh construction for earning his livelihood for himself and his family members.

13. These averments are being referred to only in order to show and demonstrate that the legal representative Mr. Abhishek Gupta cannot be said to be a stranger and imposter and there is nothing on record which may indicate that his interest is adverse to the deceased-petitioner. In such a situation, the contention raised by petitioner herein does not seem to be sustainable. Asking for 'adoption deed' merely seems to be a ploy to delay the proceedings. Moreover, the definition of 'legal representative' is wide enough to cover Mr. Abhishek Gupta who now seems to represent the estate of deceased landlord and for the purpose of present *lis* has sufficient and adequate interest in carrying on litigation.

14. In view of the above, this Court does not find any reason to interfere with the impugned order.

15. Petition is accordingly dismissed in *limine*.

(MANOJ JAIN)
JUDGE

OCTOBER 15, 2024/dr