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

+ **CM(M) 3881/2024**

SHRI SURINDER GUPTA

.....Petitioner

Through: Ms. Sonali Gupta, Adv

versus

SMT. ANITA JAIN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

22.11.2024

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CM APPL. 68048/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 3881/2024 & CM APPL. 68047/2024 (Stay)

1. Petition assails the order dated 14.08.2024, passed by the court of learned Additional Rent Controller, Central District, Tis Hazari Courts in Eviction Petition bearing No. 80837/2016.
2. Respondent filed an Eviction Petition under Section 14(1) (e) read with Section 25-B of the Delhi Rent Control Act against the petitioner.
3. On 04.02.2022, respondent filed an application under Section 151 CPC, seeking permission to allow her Special Power of Attorney to lead evidence on her behalf.



4. The application was allowed by the learned trial court vide order dated 14.08.2024. It is this order, which has been challenged in the present petition.

5. The main argument of learned counsel for the petitioner is that the trial court erred in allowing the power of attorney to depose on behalf of the respondent, disregarding the legal principle that only the attorney who has acted in pursuance of the said power, may depose on behalf of the principal in respect of such acts, but cannot depose for the principal for the acts done by the principal and not by the power of attorney.

6. There is no absolute embargo to the appointment of Special Power of Attorney and recording of evidence through such attorney in court. The law in this regard is well-settled and is no more res integra. Though, the power of attorney cannot depose for the principal in respect of matters of which the principal alone can have personal knowledge and in respect of which the principal is entitled to be cross-examined.

7. The Special Power of Attorney appointed by the petitioner is her husband and in her application, respondent has categorically stated that her power of attorney knows the case very well and can depose before the court as she herself is not keeping good health.

8. Since there is otherwise no bar to the appointment of Special Power of Attorney or Attorney appearing in court as a witness, the court finds no justified ground for any interference in the impugned order. Obviously, the trial court needs to ensure that the appointed attorney does not depose in respect of the acts done by the principal or about the facts which are to the special personal knowledge of the principal. Needless to say that the evidentiary value of the testimony of the attorney's statement would be



accordingly appreciated by the trial court.

9. Petition is accordingly dismissed.

RAVINDER DUDEJA, J.

NOVEMBER 22, 2024

RM