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

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+ **RC.REV. 174/2018**

ANEY PAL SINGH Petitioner

Through: Mr Shishir Singh, Adv.

versus

ASHOK KUMAR KHOLI Respondent

Through: Ms Nidhi Sharma, Adv.

14

+ **RC.REV. 225/2018**

DULI CHAND Petitioner

Through: Mr Shishir Singh, Adv.

versus

AVTAR SINGH Respondent

Through: Mr Anil Sharma, Adv.

15

+ **RC.REV. 228/2018**

ANEY PAL SINGH Petitioner

Through: Mr Shishir Singh, Adv.

versus

BISHAMBAR DAYAL JOSHI Respondent

Through: Ms Nidhi Sharma

16

+ **RC.REV. 231/2018**

UDAY PAL SINGH Petitioner

Through: Mr Shishir Singh, Adv.



versus

PREM LATA JOSHI

..... Respondent

Through: Ms Nidhi Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

02.04.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. The above petitions assail dismissal of the eviction petitions. In view of order passed by a coordinate bench in RC.REV.171/2019 on the basis of decision of the Supreme Court reported as AIR 1987 SC 2028, covering the present petitions, learned counsel for respondent in RC.REV.225/2018 fairly submits that the impugned order is not sustainable, so the same can be set aside and matter can be remanded to the Additional Rent Controller for fresh adjudication after considering all pleas raised by both sides. But learned counsel for respondent in the remaining petitions requests for pass over to obtain instructions of her clients on similar lines. Learned counsel for respondent in RC.REV. 225/2018 submits that in post lunch session he has to appear in other courts, so his consent for remand of the matter may be accepted.

2. As requested, recall after lunch.

GIRISH KATHPALIA, J

APRIL 2, 2024/ry



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% *Date of Decision: 02.04.2024*

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versus

PREM LATA JOSHI

..... Respondent

Through: Ms Nidhi Sharma, Adv.

CORAM:

JUSTICE GIRISH KATHPALIA

ORDER (ORAL)

1. In the pre-lunch session today, the following order was passed:

"1. The above petitions assail dismissal of the eviction petitions. In view of order passed by a coordinate bench in RC.REV.171/2019 on the basis of decision of the Supreme Court reported as AIR 1987 SC 2028, covering the present petitions, learned counsel for respondent in RC.REV.225/2018 fairly submits that the impugned order is not sustainable, so the same can be set aside and matter can be remanded to the Additional Rent Controller for fresh adjudication after considering all pleas raised by both sides. But learned counsel for respondent in the remaining petitions requests for pass over to obtain instructions of her clients on similar lines. Learned counsel for respondent in RC.REV. 225/2018 submits that in post lunch session he has to appear in other courts, so his consent for remand of the matter may be accepted.

2. As requested, recall after lunch."

2. In this post-lunch session, learned counsel for respondents in RC. REV.174/2018, RC. REV. 228/2018 and RC. REV. 231/2018 submits that her clients have instructed her to consent for setting aside the impugned order in view of legal position described in pre-lunch order.

3. By way of these petitions brought under proviso to Section 25B(8) of the Delhi Rent Control Act, the petitioners/landlords have assailed orders of the learned Additional Rent Controller whereby the eviction petitions under Section 14(1)(e) of the Delhi Rent Control Act were dismissed. As reflected from the orders impugned in these petitions, the learned Additional Rent



Controller after summoning the original records of Delhi Development Authority (DDA) recorded the findings that the subject premises exists on nazul land, vested in the Delhi Administration and the lease over the said land granted in favour of predecessors of the petitioners had expired long ago, so they were not left with any proprietary right to execute sale agreement qua the same and consequently, the petitioners are not owners of the subject premises. After recording these findings, without examining the remaining ingredients of the provision under Section 14(1)(e) of the Delhi Rent Control Act, the learned Additional Rent Controller dismissed the eviction petitions by way of the impugned orders.

4. As mentioned above, both sides admit that these cases stand squarely covered by an order of the coordinate bench of this Court in the case titled ***Raj Kumar @ Sube Singh vs. Archana Devi***, RC.REV. 171/2019 decided on 28.11.2019, observing thus:

“8. Neither the respondent-tenant nor the DDA has come forward to contend that the lease which was executed in favour of the predecessor of the petitioner was ever determined or terminated or expired by a flux of time, the court suo motu returned this finding without any such plea being raised before it.

9. Clearly the Rent Controller has exceeded its jurisdiction in looking into the document and returning the above finding. Rent Controller has clearly erred in not noticing the judgment of the Supreme Court in Shanti Sharma & Ors. vs. Smt. Ved Prabha & Ors., AIR 1987 Supreme Court 2028 wherein the Supreme Court held that even in a case where the lease had been cancelled by the DDA a petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 would still be maintainable as no steps had been taken by the DDA for dispossession of the lessee therein.”

5. I am in respectful agreement with the view taken by the coordinate bench as recorded above.



6. Accordingly, with consent of both sides, these petitions are allowed and the impugned orders are set aside, remanding these matters to the learned Rent Controller for fresh adjudication after giving fair opportunity to both sides to address arguments. Both sides shall appear before the learned Additional Rent Controller on 06.04.2024 at 02:00 pm and present a copy of this order, which be given *dasti* to both sides under signatures of the Court Master.

GIRISH KATHPALIA
JUDGE

APRIL 2, 2024/ry/rk

Click here to check corrigendum, if any