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

+ **RC.REV. 502/2018**

RAJIV GUPTA

.....Petitioner

Through: **Mr. S.C. Singhal, Advocate**

versus

HARINDER PAL SINGH & ANR

.....Respondents

Through: **Mr. Devvrat Pradhan, Mr. Mani Karna Sharma, Mr. Rinku, Ms. Sangeeta Goel, Advocates for R-1 and 2**

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

30.07.2024

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1. The present revision petition is filed under section 25B(8) of Delhi Rent Control Act, 1958 to impugn the order dated 16.08.2018 whereby the petition bearing no. E-494/2018 under section 14(1)(e) of Delhi Rent Control Act, 1958 filed by the petitioner was dismissed by the court of Ms. Susheel Bala Dagar, Pilot Court, Central, Tis Hazari Courts, Delhi (hereinafter referred to as **“the trial court”**) without issuing notice to the respondents.

2. The petitioner filed an eviction petition under section 14(1)(e) read with section 25B of Delhi Rent Control Act, 1958 against the respondents in respect of 01 shop situated on the ground floor of the property bearing no. H-16/165, Bapa Nagar, Karol Bagh, New Delhi-110005 as shown in red colour in the site plan as annexed with the eviction petition and the said shop



was let out @1,000/- per month excluding other charges initially to the respondent no.1 and subsequently, the respondent no.2 was also inducted as a tenant.

3. The petitioner is claiming to be the owner of the tenanted shop. The trial court vide impugned order dated 16.08.2018, dismissed the petition without issuing notice to the respondents as the per the Third Schedule on the ground that the petitioner has failed to show his ownership which is one of the essential ingredients for filing an eviction petition under section 14(1)(e) of Delhi Rent Control Act, 1958.

4. Mr. S.C. Singhal, Advocate appearing on behalf of the petitioner stated that the trial court has dismissed the petition merely on the ground that the petitioner was not able to show his ownership in respect of the tenanted premises and further stated that for a petition under section 14(1)(e) of Delhi Rent Control Act, 1958, absolute ownership is not required to be proved or established on record.

5. The perusal of the impugned order dated 16.08.2018 reflects that as per the documents relied upon by the petitioner, the owner of the tenanted premises was Rakesh Kumar, who is stated to be the brother of the petitioner. It was further stated that after the mutual family partition in the year 1995, the property of which the tenanted shop is a part, came to the share of the petitioner but the trial court observed that no document regarding the partition has been placed on record. The trial court has also observed that since the partition between the petitioner and his brother/Rakesh Kumar was not registered and no document which shows that the petitioner is the owner of the tenanted shop has been placed on record, the eviction petition was found not maintainable.



6. It is an accepted legal proposition that in a petition under section 14(1)(e) of Delhi Rent Control Act. 1958, the petitioner is not required to prove his absolute ownership. The trial court should have considered the submissions made by the petitioner regarding the falling of the tenanted shop in the share of the petitioner after partition with his brother/Rakesh Kumar. The trial court should not have dismissed the petition on this ground alone, rather the trial court was required to issue summons as per the Third Schedule to the respondents as per the mandate of section 25B of the Delhi Rent Control Act 1958. The impugned order cannot be sustained and is accordingly set aside.

7. The present petition is remanded back to the trial court with the direction to issue the summons to the respondents as the per Third Schedule in accordance with law i.e. as per the provisions of section 25B of the Delhi Rent Control Act, 1958.

8. The present petition is disposed of along with pending application, if any.

9. The petitioner is directed to appear before the trial court on 05.08.2024 at 02:30 P.M. for further directions.

DR. SUDHIR KUMAR JAIN, J

JULY 30, 2024

j/am/tk