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

\# **CNR No. DLHC010180182024**

RC.REV. 96/2024

MOHM. QASIM (SINCE DECEASED) THROUGH HIS LR

.....Petitioner

Through: Mr. Nikhil Malhotra and Ms. Zubia Ali, Advocates.

versus

MOHM. AMIR (SINCE DECEASED) THROUGH HIS LRS

.....Respondent

Through: Ms. Sana Ansari and Ms. Hardeep Kaur, Advocates.

16

\# **CNR No. DLHC010261992024**

\+ RC.REV. 132/2024

MOHD. QASIM (SINCE DECEASED) THROUGH LR

.....Petitioner

Through: Mr. Nikhil Malhotra and Ms. Zubia Ali, Advocates.

versus

MOHD. ANWAR .....Respondent

Through: Ms. Sana Ansari and Ms. Hardeep Kaur, Advocates.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% 07.10.2026

1. The present Petitions have been filed under Section 25-B(8) of the Delhi Rent Control Act, 1958, assailing the Order dated 25.08.2023 ["**Impugned Order**"] passed by the learned Additional Rent Controller ["**learned ARC**"], Central District, Tis Hazari Courts, Delhi in Eviction Petition Nos. 1017/2017 and 1016/2017, titled

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"Mohd. Qasim vs. Mohd. Amir" and *"Mohd. Qasim vs. Mohd. Anwar"*, respectively. The Impugned Order reads as under:-

> "25.08.2023
>
> Present : Sh. Dhruv Pandit, Ld. Proxy Counsel for petitioner.
> Ms. N. Sehar, Ld. Counsel for respondent.
> Sh. Shobhit Mahanat, Ld. Counsel for the applicant i.e. Union of India along-with Ms. Uma Bhuvaneshwari, Law Officer, Department of Enemy Property.
>
> An application u/o 22 Rule 9 r/w 151 CPC was filed by the LRs of the petitioner. Reply filed by the respondent today.
>
> An application u/o 1 Rule 10 CPC was also filed on behalf of Union of India. It is submitted by Ld. Counsel for the applicant Union of India that the present petition is not maintainable as the tenanted shop is an Enemy Property vested in the Custodian of Enemy Property for India in respect of which notification dated 10.09.1965 was issued.
>
> Adjournment is sought by ld. Proxy Counsel for the petitioner on the ground that the main counsel is not available today.
>
> The request for adjournment is declined.
>
> Since, issue regarding the maintainability has arisen, the application filed by the LRs of the petitioner for setting aside abatement is allowed and the abatement is set aside.
>
> In the application u/o 1 Rule 10 CPC filed by Union of India, it has been categorically stated that the properties situated in Ward No. XI, Shop No. 985-987, Main Bazar, Chitli Qabar, Jama Masjid, Delhi is Enemy Property. Along-with this application, order dated 06.08.1999 issued by Custodian of Enemy Property is also annexed. As per the order dated 06.08.1999, the properties bearing No. 985 to 987, Main Bazar, Chitli Qabar, Delhi are recorded as Enemy Property. As per Section 18B of Enemy Property Act, 1968 the jurisdiction of Civil Court or any other Authority to entertain any suit or proceedings in respect of Enemy Property is barred.
>
> Therefore, the present petition is clearly hit by Section 18B of Enemy Property Act, 1968 and is not maintainable in view of the bar created under the said provision.
>
> Accordingly, the present petition filed by the petitioner u/s 14 (1)(e) DRC Act is dismissed u/o 7 Rule 11 (d) CPC.
>
> **File be consigned to record room after due compliance**."

2. Learned counsel appearing on behalf of the Petitioner submits that the Impugned Order is *ex facie* unsustainable, inasmuch as the learned ARC has proceeded to dismiss the Eviction Petitions by

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relying upon a document which was brought on record by the Union of India in an Application under Order I Rule 10 of the Code of Civil Procedure, 1908 ["**CPC**"], seeking its impleadment in the proceedings. It is submitted that the impleadment Application having not been adjudicated upon, reliance upon a document annexed to the same for the purpose of substantiating the impleadment could not have formed the basis of the Impugned Order. It is further submitted that the Petitioner was afforded no effective opportunity to respond to or contest the said document before the same was made the basis for dismissal of the Eviction Petitions.

3. ***Per contra***, learned counsel appearing on behalf of the Respondent submits that the document relied upon by the learned ARC was produced by the Custodian of Enemy Property through the Union of India, and that an official of the Department of Enemy Property had also been arrayed as a witness on behalf of the Respondent. It is, therefore, submitted that the mere fact that the document was filed along with an Application under Order I Rule 10 of the CPC would not render the document incapable of being considered by the learned ARC, particularly when the document emanates from the competent authority and has a direct bearing upon the question of maintainability of the Eviction Petitions. It is thus submitted that there is no infirmity in the Impugned Order.

4. We have heard learned counsel appearing on behalf of the parties at length and, with their able assistance, perused the material placed on record.

5. The record reveals that the Union of India had filed an Application under Order I Rule 10 of the CPC seeking its impleadment and, in support thereof, had relied upon, *inter alia*, the

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Order dated 06.08.1999 issued by the Custodian of Enemy Property. The learned ARC, however, proceeded to rely upon the said document to hold that the Subject Premises constituted Enemy Property and, consequently, that the Eviction Petitions were barred under Section 18B of the Enemy Property Act, 1968.

6. In our view, the learned ARC could not have proceeded to rely upon the said document for determining the maintainability of the Eviction Petitions without affording the Petitioner an effective opportunity to contest the said document. The veracity of the said document, as also its applicability to the Subject Premises, were matters which required consideration after affording the Petitioner an opportunity to address the same. The learned ARC, therefore, erred in treating the said document as determinative of the issue of maintainability and in proceeding to dismiss the Eviction Petitions on that basis.

7. In view of the foregoing discussion, the Impugned Order is, accordingly, set aside. The matters are remanded back to the learned ARC for *de novo* consideration on merits and for disposal thereof in accordance with law.

8. It is clarified that this Court has not expressed any opinion on the merits of the rival contentions, including as to whether the Subject Premises constitute Enemy Property or whether the bar under Section 18B of the Enemy Property Act, 1968 is attracted.

9. The present Petitions, along with pending Application(s), if any, stand disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 7, 2026/nd/ma

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