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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 19th February, 2018

+ CM(M) 193/2018 & CM Nos.6332-6334/2018

M/S ASHOKA CHEMICALS (INDIA) Petitioner

Through: Mr. Puneet Sharma with
Mr. Siddharth Dias, Advocates.

versus

M/S BHARTIYA HINDU SHUDHI SABHA TRUST (REGD)

..... Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is respondent in the proceedings arising out of petition (E-444/17/15 - new No.80179/16) which were instituted by the respondent Trust on 16.09.2015 seeking an order of eviction on the ground of *bona fide* need under Section 14(1)(e) of Delhi Rent Control Act, 1958 respecting a portion forming part of property no.6949, Birla Lines, Sabzi Mandi, New Delhi-110007, which is the subject matter of tenancy in use and occupation of the petitioner herein.

2. Having regard to the ground on which eviction is being sought, the procedure under Section 25(B) of Delhi Rent Control Act has been invoked. The petitioner upon being served with the special summons under Section 25(B) had submitted an application for leave to defend in November, 2015. The Additional Rent Controller had earlier

considered the said application dismissing it by order dated 29.09.2016 and consequently passing an order of eviction in favour of the respondent.

3. The petitioner had come up to this Court in revisional jurisdiction (RC. Revision No. 7/2017) raising the grievance that it had not been granted the opportunity to argue. Though the Court observed that the said ground was not “*very convincing*”, yet on the condition of cost to be paid, the said earlier order dated 29.09.2016 was set aside and the matter remanded to the Additional Rent Controller for “*a fresh consideration*”.

4. The copies of the proceedings recorded on the file of the eviction case after the remand as aforesaid give the impression that the petitioner, instead of arguing on the said application for leave to defend, has chosen to come up with a series of applications including one praying for rejection of the eviction petition under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC), another seeking to bring on record additional documents under Order VIII Rule 8 read with Section 151 CPC, yet another under Section 151 CPC to the effect that the petition cannot be maintained in the teeth of the provision contained in Section 22 of Delhi Rent Control Act, another application under Section 151 CPC praying for grant of leave to contest with reference to the law declared by the Supreme Court in *Precision Steel & Engineering Works v. P. Deva Niranjana*, 1982 (3) SCC 270 and, yet another, under Section 151 CPC praying for “*pagination of court file and for certified copies to be provided*”.

expeditiously". All the said applications were considered by the Additional Rent Controller and disposed of by order dated 29.01.2018. The Additional Rent Controller having dismissed the said applications, the petitioner has approached this Court by the petition at hand.

5. The prime focus of the counsel for the petitioner at the hearing was on the additional material submitted with the application under Order VIII Rule 8 CPC, the argument being that the said document purporting to be copy of the minutes of the meeting of the respondent Trust held on 17.06.2015 provides grounds to the tenant in the nature of "*subsequent events*". Having regard to the chronology, however, the submission that the minutes of meeting held on 17.06.2015 pertain to "*subsequent events*" cannot be accepted.

6. Be that as it may, the question as to whether a tenant against whom eviction petition has been filed under Section 14(1)(e) of Delhi Rent Control Act, he having filed an application for leave to contest, can come up with additional documents has not even been dwelt upon by the Additional Rent Controller. This was an important question of law, particularly in the light of decision of the Supreme Court in *Prithipal Singh v. Satpal Singh (dead) through its LRs. (2010) 2 SCC 15*.

7. The issues raised by the application under Order VII Rule 11 CPC and in the context of the provision contained in Section 22 of the Delhi Rent Control Act are questions of law. Instead of decision

being taken piecemeal on such issues, as indeed on the permissibility of additional material being submitted or its effect, if any, on the prayer of the respondent/landlord for eviction, the aforementioned applications should have been considered by the Additional Rent Controller at the same time as of consideration of the application for leave to defend. In the opinion of this Court, it is most improper on the part of the petitioner to embroil the proceedings by series of such applications in the manner done, he having not shown any interest in arguing on the leave to defend application for which the matter was remanded.

8. In the above facts and circumstances and against the above backdrop of the previous proceedings, the counsel for the petitioner, at this stage, submitted that he may be allowed to withdraw the present petition and instead be given liberty to argue before the Additional Rent Controller on the application for leave to defend, his prayer being that he may be allowed to re-agitate at the same stage the questions of law to seek rejection of the petition under Order 7 Rule 11 CPC on the ground of provision under Section 22 of Delhi Rent Control Act, 1958 and reliance on law laid down in *Precision Steel (supra)*. He undertakes that he would not seek any further adjournment for arguments on the application for leave to defend and shall also not burden the record with any further application till decision is taken on the application for leave to defend.

9. The petition is dismissed as withdrawn. The petitioner is given liberty to re-agitate the questions of law with reference to Section 22

of Delhi Rent Control Act, 1958 and the ruling in *Precision Steel (supra)* besides the question of law arising out of the contention vis-à-vis the document purporting to be minutes of meeting of the respondent held on 17.06.2015, subject, of course, to its admissibility at this stage of the proceedings in the light of the ruling of the Supreme Court in *Prithipal Singh (supra)*. The Additional Rent Controller shall fix a date suitable to his calendar and take a decision on the application for leave to defend at an early date.

10. The petition and the applications filed therewith stand disposed of in above terms.

R.K.GAUBA, J.

FEBRUARY 19, 2018

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