

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : CODE OF CIVIL PROCEDURE

Date of Judgment: 17.02.2012

CM(M) 1507/2009 & CM No. 18560/2009

SAROJ MEHTA & ORS

..... Petitioners

Through Mr. V.K. Rao, Sr. Advocate with
Ms. Ekta Kalra, Adv.

versus

CHAND BAIR & ANR

..... Respondents

Through Mr. Satish Sahai, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1 Order impugned before this Court is the order dated 30.11.2009 whereby the first appellate Court had endorsed the finding of the Civil Judge dated 03.07.2008 wherein the application filed by the defendant under Order 11 Rule 4 read with Section 151 of the Code of Civil Procedure (hereinafter referred to as the 'Code') had been dismissed. This was in an appeal filed before the RCT under Section 38 of the Delhi Rent Control Act (DRCA).

2 Record shows that an eviction petition has been filed by the landlord against his tenant on the ground of Section 14 (1)(d) of the DRCA. Evidence of the landlord was completed on 29.04.2002 and thereafter the matter was fixed for the evidence of the respondent. On 21.08.2002, the affidavit by way of evidence of the respondent had been filed; a document (the document in dispute) was exhibited as Ex. RW-1/2. This document is a letter dated 24.04.1984 purported to have been returned by the landlord Jinesh Prasad Backliwal to his tenant R.K. Mehra. Record shows and it is an

admitted position that this document had been exhibited as Ex. RW-1/2 but on 20.11.2002 a categorical statement had been made by the counsel for the tenant Mr. Anupam Srivastava that he does not wish to exhibit these four documents Ex.RW-1/1 to Ex. RW-1/4 which included the document Ex.RW-1/4. At the request of counsel for the tenant, (which is an admitted fact) this document dated 24.04.1984 was accordingly ordered to be de-exhibited. In February, 2003, present application under Order 11 Rule 4 of the Code had been filed. This is an application by virtue of which the tenant had sought to put certain interrogatories to the landlord; they related to the aforementioned letter dated 24.04.1984. Perusal of this application shows that it is completely silent as to what is the relevancy of interrogatories sought to be put to the landlord; moreover the submission now vehemently urged by learned senior counsel for the petitioner that the disputed document (Ex. RW-1/2) was de-exhibited only for the reason that a photocopy of the said document was available and the original was not on record is not substantiated from the record. The record nowhere shows that this document Ex. RW-1/2 was de-exhibited only for the reason that the original was not on record. Be that as it may, there was a clear and categorical statement made by the counsel for the respondent on 20.11.2002 that he does not wish to prove this document in evidence. Matter was thereafter listed for final arguments.

3 Both the courts below have correctly appreciated that the whole purpose and import of Order XI of the Code is to cut short a litigation and interrogatories are permitted to be served by one party to the other party in order that information can be elicited from these questionnaires which are given to the other party; purport being to save expenses and to enable one party to obtain information from the other party which are related to the matter in dispute. That stage was admittedly over as the matter was ripe for final argument when this application was filed. That apart this application was wholly silent as to what was the relevancy of interrogatories to the matter in dispute; this is also a serious lacuna.

4 The submission of the learned counsel for the respondent is that one way or the other, the tenant is trying to delay the proceedings and this application has been hanging fire for almost 9 years.

5 In this background, the impugned order rejecting the application of the petitioner in no manner suffers from any infirmity. Petition is without any merit.

6 Dismissed.

FEBRUARY 17, 2012

Sd./-
INDERMEET KAUR, J