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

+ RFA 196/2025

ANIL TALWAR & ANR.

.....Appellant

Through: Mr. K. K. Srivastava, Advocate for
appellants

versus

SHRI PREM PAL

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **18.03.2025**

CM APPL. 12177/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application is accordingly disposed of.

RFA 196/2025

1. This appeal has been filed for setting aside the impugned judgment and Decree dated 5th October 2024, passed by the District Judge (Central) Tis Hazari Courts in CS DJ/978/2019 titled "**Anil Talwar & Anr. v. Prem Pal**".
2. The suit was filed by the appellants/plaintiffs claiming to be owners of property bearing No. 2253-2256 Shora Kothi, Subzi Mandi, Delhi-110007 by virtue of a registered sale deed dated 19th July 1984, executed by their father.



3. One room and *veranda* on the ground floor of the property were occupied by *Sh. Tota Ram* who was stated to be a tenant. The said late *Sh. Tota Ram* died issueless and intestate without having any legal heir at the time of his death.
4. The defendant who was residing in another portion of the property trespassed into the share occupied by *late Sh. Tota Ram*, and claimed tenancy rights.
5. A suit for decree of possession was filed seeking possession of the portion which was under the tenancy of *Sh. Tota Ram*.
6. By the impugned order, the said was dismissed on the basis that the Rent Control Tribunal ('**RCT**') was seized of the matter regarding the status of the defendant as to whether the defendant was an heir or not of the original tenant, *late Sh. Tota Ram*. The rent had been deposited by defendant under provisions of *Section 27* of the Delhi Rent Control Act, 1958.
7. Counsel for appellant points out that the decision in the RCT appeal was already passed on 24th August 2023, where it was held that the record revealed that defendant/respondent himself has pleaded and then argued that he is not a direct descendant of the tenant, *late Sh. Tota Ram* and the rent was deposited by him in the name of *Sh. Tota Ram*.
8. In view of the same, it was held in *paragraph 8.1* of the said order that the status of respondent *Sh. Prem Lal*, cannot be said to be that of a tenant in his independent right, tenancy has, therefore, not been established or even pleaded and petition under *Section 27* of the DRC Act was not maintainable.
9. A copy of the said order had been placed on record on 3rd November 2023, which is also on record of this Court and appended as an *Annexure- F*



to the appeal.

10. Counsel for appellant, therefore, states that the impugned judgment has been passed completely ignoring the factum of the RCT appeal in order of 24th August 2023.

11. Accordingly, issue notice to the respondent on steps being to be taken by the appellant through all permissible modes, including email, returnable on 12th August 2025.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MARCH 18, 2025/RK/bp

Click here to check corrigendum, if any