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

+ RC.REV. 365/2019 & CM APPL. No. 27167/2019

QAMAR JAHAN

..... Petitioner

Through: Mr. S.D. Ansari & Mr. I. Ahmed,
Advts. with petitioner in person.

versus

SHEIKH SULTAN AHMAD WAKF & ANR Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **30.05.2019**

Mr. S.D. Ansari, learned counsel for the petitioner contends that the position of law in relation to grant of leave to defend under Section 25-B of the Delhi Rent Control Act, 1958 has been elucidated by the recent order dated 11.04.2019 made by the Supreme Court in Civil Appeal No. 3879/2019 titled ***Mohd. Hannan & Anr. vs. Abdul Basit***, whereby it is no longer required that any material in support of the defences or triable issues raised in the leave-to-defend application be filed at the stage of consideration of leave to defend.

2. For this, counsel relies upon the following observation contained in order dated 11.04.2019 made by Supreme Court in the aforesaid matter:

“Having perused Section 14 and Section 25 (b) of the Rent Control Act and the judgment of this court referred to supra in the case of Precision Steel, we are of the opinion that the affidavit contains sufficient averments on the basis of which the appellant is entitled for leave to defend. As stated by this court in Precision Steel, the court, while granting leave to defend has to be specified that the facts are



stated in the affidavit. Proof of the facts is not required at that stage. The adjudication of the application for leave to defend has to be confined to the averments in the affidavit. If the affidavit discloses the relevant facts, leave should not be refused even if the landlord disputes the said facts.”

(Emphasis Supplied)

Counsel therefore contends that what is required is that the affidavit in support of leave-to-defend application should ‘disclose’ relevant facts; and there is no requirement for filing any documents or material to substantiate the averments.

3. Counsel contends that a perusal of the impugned order dated 17.01.2019, whereby leave-to-defend was refused in the present case and eviction order has been passed, shows that the learned Additional Rent Controller is persuaded on the basis that no documents/evidence in support of the defences raised are forthcoming on record. This position, counsel contends is contrary to the mandate of the Supreme Court in the above noted order.

4. For considering the true scope and applicability of the Supreme Court order dated 11.04.2019 in the context of the present case, issue notice returnable 09th July 2019.

5. Upon the petitioner taking steps, let notice be sent to the respondents for the returnable date.

6. List on 09th July 2019.

ANUP JAIRAM BHAMBHANI, J.

MAY 30, 2019/uj