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

+ **C.R.P. 153/2025, CM APPLs. 31772-73/2025**

YN GUPTA DECEASED THRU LRS & ORS.Petitioners

Through: Ms. Sonali Chopra, Advocate

versus

M/S GREENWAYS & ANR.Respondents

Through: Mr. Sacchin Puri, Sr. Advocate with
Mr. Praveen Kumar, Mr. Dhan Singh,
Mr. Harsh Vardhan, Mr. Kumar
Shubham, Mr. Suman Raj and Mr.
Prithivi Rajmehra, Advocates for R-1
Ms. Aakanksha Kaul, Advocate for
Profroma Respondent

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **22.05.2025**

CM APPL. 31772/2025*[Exemption from filing certified/typed copies of the documents]*

1. Allowed subject to the Petitioners filing typed copies of the documents within three weeks from today.

C.R.P. 153/2025, CM APPL. 31773/2025*[Stay]*

2. The present Petition seeks to challenge the Order dated 29.01.2025 passed by the learned District Judge-03 (New Delhi District), Patiala House Courts, Delhi in CS No. 56700/2016 captioned **Y.N Gupta v. M/s Greenways** [hereinafter referred to as "Impugned Order"]. By the Impugned Order, the Application filed by the Petitioners under Order XII Rule 6 read

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with Section 151 of the Code of Civil Procedure, 1908 has been dismissed.

3. Learned Counsel appearing on behalf of the Petitioners submits that the suit seeking recovery of possession/ejectment and damages was filed in the year 2013.

3.1 Learned Counsel appearing on behalf of the Petitioners further submits that in terms of the settled law, as laid down by the Supreme Court, what is required to be shown is three things. Firstly, that there exists a landlord tenant relationship between the parties. Secondly, that the tenancy is not a protected tenancy under the Delhi Rent Control Act, 1958. Thirdly, the tenancy has been terminated and the Respondent tenant has failed to hand over the possession of the tenanted premises. [even filing of an eviction suit itself is a notice to quit on the tenant].

3.2 Learned Counsel appearing on behalf of the Petitioners submits that despite the presence of all three ingredients, the Impugned Order has dismissed the Application under Order XII Rule 6, CPC filed by the Petitioners based on a finding that there is a confusion regarding the area of the subject premises and thus there exists a triable issue.

4. Issue Notice.

4.1 Learned Counsel appearing on behalf of the Respondent Nos. 1 and 2 accept Notice.

5. At the outset, learned Senior Counsel appearing on behalf of the Respondent No. 1 raises an issue *qua* delay in filing the Petition.

6. Learned Counsel appearing on behalf of the Petitioners submits that the limitation has been calculated and is set out in paragraph 10 of the Petition and based on these averments the Petition has been filed on the last date when the prescribed period of limitation expires.

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7. Learned Senior Counsel appearing on behalf of the Respondent No. 1 submits that landlord tenant relationship is in dispute and thus, the Impugned Order is not infirm.
8. The aforesaid contention made by the learned Senior Counsel for the Respondent No. 1 is refuted by the learned Counsel appearing for the Petitioners.
9. The parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least three days before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon.
- 9.1 All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.
10. The Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.
11. Given the fact that the issue in the present Petition is limited, the matter is listed for hearing and final disposal on 10.09.2025.

TARA VITASTA GANJU, J

MAY 22, 2025

g.joshi

Click here to check corrigendum, if any