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

+ **RC.REV. 466/2019**

BRIJ MOHAN BHANDARI

..... Petitioner

Through: **Ms. Sonali Malhotra, Advocate.**

versus

SATISH KUMAR & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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07.08.2019

C.M. No.35551/2019 (for exemption)

Allowed, subject to just exceptions.

Application stands disposed of.

RC. REV. No.466/2019 and C.M. No.35550/2019 (for stay)

The petitioner/landlord impugns order dated 02.05.2019 whereby leave-to-defend has been granted to the respondents/tenants.

Ms. Sonali Malhotra, learned counsel for the petitioner contends that the principal ground on which leave-to-defend has been granted is that, in the learned ARC's view, the respondents have raised triable issues relating to the petitioner's ownership of the subject premises as well as the relationship of landlord and tenant as between the parties.

Ms. Malhotra however contends that these are non-issues



inasmuch as in reply dated 10.02.2016 sent by the respondents to petitioner's notice dated 27.01.2016, the respondents had in express terms admitted that ownership of the subject premises vested in the petitioner; and had in fact placed the entire chain of title as it devolved upon the petitioner's father, then upon the petitioner's mother and then upon the petitioner. In the said reply, the respondents had also admitted that upon becoming owner of the subject premises, the petitioner had started taking rent from the respondents, thereby admitting attornment.

It is noticed that while considering the aforesaid reply, the ARC appears to doubt the very identity of the premises; and observes in the impugned order that the notice and reply were exchanged in relation to one shop in property bearing No. 2848/18, Beadonpura, Karol Bagh, New Delhi whereas the premises that is subject matter of the eviction petition is not just one shop but also includes a hall, a shop, two stores, one Haudi and mezzanine floor alongwith a loft. Counsel for the petitioner however states that it is evident that the eviction petition was filed for the entire premises, being the ground floor portion of property No.2848/18, Beadonpura and all details of the portion within the subject property were stated in the petition, while only a broad description was given in the lawyer's notice. She states that there is no difference or discrepancy as between the property that was subject matter of the lawyer's notice and that which is subject matter of the eviction petition.

Issue notice returnable 28.11.2019.

Upon the petitioner taking steps, let notice be sent to the



respondents for the returnable date.

Let trial court record be requisitioned for the next date.

Since on a *prima facie* view, there appears to be a clear admission on part of the respondents as regards the ownership and landlordship of the petitioner, proceedings before the ARC's court shall remain stayed, till the next date of hearing.

ANUP JAIRAM BHAMBHANI, J

AUGUST 07, 2019

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