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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1222/2025 & CM APPL. 41165-41166/2025**
SMT. KAUSHALYA DEVI

.....Petitioner

Through: Mr. D V Khatri with Mr. Harshad
Gupta and Ms. Kalpana, Advocates.

versus

SH. AJAY KUMAR GUPTA

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

15.07.2025

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1. A suit for possession and damages has been filed against the petitioner herein.
2. She is defendant No.1 in such suit.
3. The suit is commercial in nature and even according to the bare averments made in the plaint, defendant No.1 is tenant under the plaintiff with respect to the suit property, situated at Sadar Bazar, Delhi-06 at a monthly rent of Rs. 24/-, excluding other charges.
4. The premises have been let out for commercial purposes only.
5. As per the abovesaid plaint, the defendant No. 1 is in arrears of rent for last more than 30 years.
6. However, according to plaintiff, defendant No.1 has sub-let, assigned or part with the possession of different portions of tenanted premises to several others and charging rent from them. One Mr. Vinay Kumar, paying monthly rent of more than Rs. 3,500/-, is running his business in one portion



of the tenanted premises. Some other portion of the tenanted premises have also been sub-let in the same manner to one another sub-tenant at a monthly rental Rs. 17,500/- and at a monthly rent of more than Rs. 3,500/-. While asserting above, the plaintiff also claimed that, therefore, the provisions of Delhi Rent Control Act, 1958 were not attracted.

7. The issues have already been framed by the learned Trial Court and on the basis of the subsequent request made by defendant No.1 an issue to the effect “*whether the suit is barred by provisions of Section 50 of Delhi Rent Control Act or not*”, has also been framed *vide* impugned order 29.05.2025.

8. However, the grievance of the petitioner is with respect to the manner in which his application moved under Order VII Rule 11 CPC has been dismissed.

9. He submits that in view of the averments made by the plaintiff in the suit in question, clearly, the suit is barred under Section 50 of Delhi Rent Control Act and, therefore, being barred by law, his application moved under Order VII Rule 11 CPC should have been allowed by the learned Trial Court but for the reasons best known to the learned Trial Court, it has observed that the aspect of tenancy and rate of rent can be ascertained only during the trial.

10. Issue notice through all permissible modes as also through counsel, returnable on 17.10.2025.

11. Keeping in mind the point agitated in the present petition, the recording of evidence is directed to be deferred till next date.

12. Order dasti under the signatures of the Court Master.

MANOJ JAIN, J

JULY 15, 2025/sw/JS