



2025:DHC:7806



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of Decision: 03<sup>rd</sup> September, 2025**

+ CM(M) 2619/2024

LT COL ATUL CHAUDHARY .....Petitioner

Through: Mr. N.S. Rao, Advocate along with  
petitioner-in-person (Through VC)

versus

SMITA CHAUDHRY AND ORS .....Respondent

Through:

**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. An eviction petition was filed on several grounds i.e. under Section 14 (1)(a), (b), (c), (e), (j) & (k) of Delhi Rent Control Act, 1958 whereby the concerned landlord i.e. Ms. Samita Chaudhary and five others were seeking eviction of their tenants from the tenanted premises situated at 733, Church Mission Road, Fatehpuri, New Delhi i.e. Hotel Astoria.
2. The aforesaid eviction petition was disposed of by the learned Controller *vide* judgment dated 26.10.2021 whereby the eviction was ordered only on the ground of subletting i.e. under Section 14(1)(b) of Delhi Rent Control Act, 1958 and it was dismissed *qua* the other grounds.
3. Feeling aggrieved by the aforesaid eviction order passed under Section 14(1)(b) of Delhi Rent Control Act, 1958, the concerned tenant filed an appeal which was registered as RCT No. 42/2021.
4. When the aforesaid appeal was taken up by the learned Rent Control Tribunal on 25.08.2023, the appellant prayed for withdrawal of her such appeal by moving an application. Simultaneously, there was also a request



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coming from the side of Lt. Col. Atul Chaudhary (petitioner herein) that he had already moved an application seeking his intervention in the aforesaid appeal and prayed that his application moved under Order I Rule 10 CPC may also be considered. Fact remains that a similar request had been made by him when the eviction petition was pending adjudication and such application was dismissed by the learned Rent Controller. It was brought to the notice of learned Rent Control Tribunal that such order, whereby the learned Rent Controller had dismissed the application filed under Order I Rule 10 CPC, was never challenged by the intervener.

5. Fact, however, remains that since appellant was no longer interested in pursuing her appeal, learned Rent Control Tribunal, after recording her separate statement to the aforesaid effect, has dismissed her appeal and, consequently, the application filed by the intervener under Order I Rule 10 CPC has also been disposed of.

6. Such order is under challenge and the grievance of the petitioner i.e. intervener is to the effect that his application should have been considered and disposed of, irrespective of the fact that appeal was sought to be withdrawn by the appellant.

7. However, aforesaid contention seems completely fallacious for two reasons.

8. Firstly, similar endeavour was made by the applicant/petitioner when the eviction petition was pending adjudication and his application moved under Order I Rule 10 CPC had been dismissed and he never took any exception to such order. Secondly and more importantly, the impleadment is only possible when some proceedings are pending and continuing. The moment, the appellant had made a statement to the effect that she was not



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interested in pursuing her appeal and the learned Rent Control Tribunal permitted the appellant to withdraw her appeal, the consequent disposal of the aforesaid application moved under Order I Rule 10 CPC was *fait accompli*.

9. Finding no illegality or infirmity in the dismissal of his application by the learned Rent Control Tribunal, the present petition is hereby dismissed.

**(MANOJ JAIN)**  
**JUDGE**

**SEPTEMBER 3, 2025/dr/js**