

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) No. 371/2008

% Date of Decision: 24th March, 2008

NARESH KUMAR JAIN Petitioner
! Through: Mr. Sunil Lalwani, Advocate

Versus

\$ TRIPTA RANI MALHOTRA Respondent
^ Through:

CORAM:

***HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether the reporters of local papers may be allowed to see the judgment?
2. Whether the judgment be referred to the reporter or not?
3. Whether the judgment should be reported in the digest?

Veena Birbal, J. (ORAL)

Matter is taken up at admission stage. The eviction petition under Section 14 (1) (a) of Delhi Rent Control Act was filed against the petitioner on the ground of non-payment of rent. The respondent/landlord has alleged that the premises were let out to him for residential purposes and the petitioner had not paid rent since February 1993. Legal notice dated 30th July, 1988 was also sent to him and despite that rent was not paid by him. In reply to the said petition, petitioner has denied the relationship of landlord and tenant. According to him his

wife is a tenant of the premises in question and as such the petition is not maintainable. Learned ARC rejected the contention of the petitioner that his wife is the tenant and petitioner is not the tenant in the suit property and order was passed under Section 14 (1) (a) of DRC Act directing the respondent to pay arrears w.e.f. 1.10.1996 within 30 days from the date of order and petitioner was also given the benefit of adjustment of rent already paid by him. Petitioner has challenged the said order before learned Rent Control Tribunal. Learned Rent Control Tribunal vide order dated 8.12.2007 upheld the finding of learned ARC.

Petitioner has assailed the impugned order on the ground that there was no relationship of landlord and tenant between the parties. It is contended that without considering the facts and circumstances of the case finding in this regard is given which is ought to be set aside by this Court.

I have considered the submissions made and perused the material on record.

It may be mentioned that before learned ARC, petitioner did not comply with the order of payment of rent and as such his defence was struck down. The said order was challenged by the petitioner before the High Court which was also not interfered with. Thus, there is no evidence led by the petitioner before the

ARC to show that his wife is a tenant in respect of suit property as is alleged by him. Perusal of record shows that while giving the finding that petitioner is the tenant of respondent, learned ARC has placed reliance upon judgment passed by Sh. Vinod Kumar Gautam, Learned Civil Judge, Delhi in Suit No. 37/2004 against the petitioner wherein the petitioner had made the following statement :

“I am not going to part or create third party right in the tenanted room i.e. property No. V-136/22, Arvind Mohalla, Ghonda, Shahdara, Delhi-110053.”

Perusal of record shows that there is evidence of landlord on record wherein she has stated that the premises was let out to petitioner and in cross-examination she has denied the suggestion that it was let out to his wife. Perusal of record shows that a notice was also sent to petitioner before filing the eviction petition by the respondent/landlord calling upon him to make payment of arrears of rent. Petitioner had not replied to said notice and thereby admitted that he is a tenant. As already mentioned above, there is no evidence to the effect that wife of the petitioner was tenant in respect of suit property as the evidence of the petitioner had already been struck down. Learned ARC has given a detailed reasoning in this regard holding that petitioner was the tenant in respect of suit property. The said finding has been upheld by the learned Rent CM(M) No.371/2008

Control Tribunal. The impugned order is well reasoned order and does not suffer from any jurisdictional error or infirmity which calls for interference by this court under Article 227 of the Constitution of India.

In view of above, the petition stands dismissed.

Veena Birbal, J.

March 24, 2008
srb