

2

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

Date of Reserve: 01.07.2008

Date of Order: July 07, 2008

+ RCR No. 55/2008

%

Jaspal Singh Bhatia ... **Petitioner**
Through: Mr.S.C. Dhawan, Advocate

Versus

Smt.Sangeeta Chawla ... **Respondent**
Through: Nemo.

JUSTICE SHIV NARAYAN DHINGRA

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

ORDER:

This revision petition has been preferred by the petitioner against the order of Additional Rent Controller, Rohini, Delhi dated 12.3.2008 whereby she dismissed the application filed by the petitioner for leave to contest the eviction petition.

2. The respondent has sought the eviction of the petitioner under section 14 (1)(e) of the Delhi Rent Control Act on the ground that she was residing in Ballabgarh (Haryana) along with her husband, one son, Robin and daughter Priyanka Chawla. She pleaded that her daughter got

RCR No. 55/2008

Page 1 of 5

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

admission in B.Com (H) in Shaheed Bhagat Singh College, University of Delhi in July 2007 in the Academy of Commerce, South Patel Nagar, Delhi and she required premises in Delhi, under the tenancy of the petitioner, for her bonafide need to shift to Delhi so that her daughter could pursue the studies at Delhi. She also pleaded that her other son got admission in an Engineering College in Gurgaon and it would be convenient for him to go to his College from Delhi instead of going from Ballabgarh. She therefore wanted the premises in occupation of the petitioner due to her bonafide needs.

3. The stand of the petitioner in the application under section 25-B (4) of the Act was that the petitioner (respondent herein) was neither owner nor landlady of the premises and the original owner was one late Shri Parmanand who died issueless and intestate. Petitioner wrongfully got her name mutated in the office of L&DO as successor-in-interest of deceased Parmanand claiming herself to be his daughter. The other ground taken was that since the transfer of property in the name of petitioner five years had not yet elapsed, the petition was barred by virtue of section 14 (6) of the Act. On the issue of bonafide need, it was stated that it was easier for daughter of petitioner to go to her College in Delhi from Ballabgarh, then to go from Moti Nagar where the premises is situated.

4. The learned ARC observed that it was case of the respondent (petitioner herein) that premises were let out to him vide agreement

dated 12.9.2005 and the relationship of the landlord & tenant was admitted by him. The documents filed on record also showed that the property in question was originally allotted to Parmanand and thereafter it was transferred in the name of respondent (landlady) by the L&DO Department as his successor/legal heir. The ARC observed that under section 14(1)(e) of the Act landlady was not required to establish her absolute ownership. The contention of the petitioner that application under section 14(1)(e) of the Act was not maintainable under section 14(6) of the Act, was also rejected in view of the fact that the property was not transferred to the petitioner by sale, but she had succeeded to the property as a successor of Parmanand. The ARC observed that the bar of filing a suit on the ground of bonafide requirement for a period of 5 years from date of transfer is applicable in the case where the property is sold/purchased by a person in order to create a ground for bonafide requirement, but if the purchaser/transferee was already in possession of the property at the time of creating tenancy, section 14 (6) was not attracted. In the present case the provisions of section 14(6) were not attracted since the landlady was already in possession on the date of creation of tenancy.

5. The learned ARC found that the claim of landlady that her daughter and son had got admission in Delhi University and Engineering College in Gurgaon, had not been controverted by the respondent (petitioner herein) and the bonafide necessity of the landlady could not be

doubted.

6. The learned counsel for the petitioner argued that the landlady had frivolously obtained the fee receipts for her daughter and son from different colleges and on the basis of such receipts the ARC could not have dismissed the application under section 25-B(4) of the petitioner.

7. This contention of forged receipts raised by the petitioner before this Court was not raised by him before the learned ARC. This contention raised for the first time before the Court cannot be entertained. The other contention raised by the petitioner is that the house in occupation of the petitioner was a small house and would not be sufficient for the residence of landlady. He also argued that husband of the landlady was having business in Ballabgarh and the landlady would not be shifting to the premises in question. All the contentions raised by the petitioner have been considered by the ARC and the ARC after considering all these contentions rejected the application.

8. It is settled law that landlord is best judge of his residential requirement. He has complete freedom to consider what is best for him. If a landlord's children are studying in Delhi and landlord considers that for the education of his children, he should shift to Delhi, the tenant cannot take the plea that children can commute from Ballabgarh to Delhi more easily than within Delhi. It is for the landlord to decide as to in what manner he should live and whether the accommodation in which he

6

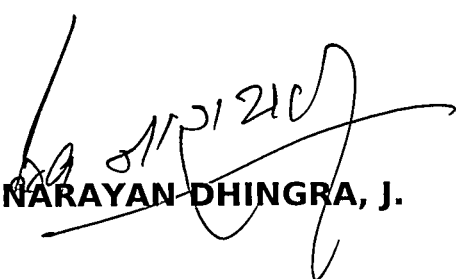
intends to live was sufficient or not. Tenant cannot dictate his terms to the landlord.

9. While exercising powers of revision under section 115, this Court cannot act as a Court of appeal and cannot re-appreciate & re-consider the entire matter on merits. The Court has only to see that the learned ARC had acted in accordance with the principles of law and not committed an error of jurisdiction or exceeded the jurisdiction.

10. I find that there is no infirmity in the order of learned ARC. Accordingly, this petition is hereby dismissed being without merits.

July 07, 2008.

v


SHIV NARAYAN DHINGRA, J.