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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RC.REV. 54/2008

RAM KISHORE

..... Petitioner

Through: Mr. Rajiv Saxena, Adv.

versus

SAVITRI DEVI

..... Respondent

Through: Mr. O.P. Aggarwal, Adv.

CORAM:

HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA

ORDER
12.08.2008

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Arguments heard.

I find no force in the petition.

The petition is dismissed for the reasons to follow.

AUGUST 12, 2008
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SHIV NARAYAN DHINGRA,J

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: August 12, 2008

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12.08.2008

Ram Kishore

..... Petitioner

Through: Mr. Rajiv Saxena, Adv.

Versus

Savitri Devi

...Respondent

Through: Mr. O.P. Aggarwal, Adv.

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT (ORAL):

1. The petitioner is aggrieved by an order dated 1st April, 2008 of learned ARC dismissing his application under Section 25 B of DRC Act for leave to contest.
2. The landlady in this case filed an Eviction Petition under Section 14 D of the Delhi Rent Control Act on the ground that the premises in occupation of the petitioner was required by her for her residence. The premises was owned by Sh. Ramesh Kumar Sharma. Sh. Ramesh Kumar Sharma expired on 21st December, 1998 leaving behind Savitri Devi, his widow, Sh. Parimal Sharma, his son and three married daughters namely

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Smt. Rekha Sharma, Smt. Vandana Sharma, and Smt. Kavita Sharma who all become co-owners/co-landlords. After death of Sh. Ramesh Kumar Sharma, his widow, with consent of other co-owners, started getting rent from the petitioner against proper rent receipts. She filed the Eviction Petition after obtaining NOC from other co-owners.

3. The petitioner is in occupation of two rooms and a kitchen in the premises. The other accommodation in the premises viz. one room, attached toilet and the bath on ground floor is occupied by Sh. Parimal Sharma and his wife Radha Sharma and their minor daughter Deepanshi. The remaining two rooms and a kitchen on the ground floor with common latrine and bath were in occupation of one tenant namely Shiv Charan Sharma. On first floor, there were two rooms and one kitchen in joint occupation of landlady and her son Parimal and his family members. Rest two rooms and kitchen were occupied by the petitioner. On the second floor, there was a latrine and a small store.

4. The landlady is aged 75 years. She submitted that she required the premises for herself. Her daughters used to come and stay with her for long time since she was aged and she used to call them for help and assistance. The present accommodation where she was living with her son was highly

insufficient and she had no alternate accommodation.

5. In the application for leave to defend, the petitioner raised several objections and issues. The first objection raised by the petitioner was that the landlady was not the owner of the property. The second objection was that the premises was being used for residential-cum-commercial purpose by the tenant from the inception of tenancy. The third objection was that the landlady has not disclosed actual accommodation available to her and the site plan was not correct, fourth objection was that the property in question consisted of two rooms on ground floor, two rooms on first floor and the landlady had been trying to convert two rooms into a big room in order to suppress the actual accommodation and the fifth objection taken was that there was no relationship of landlord and tenant between the petitioner and the landlady. The next objection was that the Eviction Petition was filed only against one tenant and not against the second tenant residing at the ground floor. It was also stated that a security of Rs. 42,000/- was given by the tenant to the landlady at the time of inception of tenancy.

6. The respondent/landlady refuted all the averments made by the petitioner. However, it was not denied that the security of Rs.42,000/- was lying with the landlady and the same shall be returned. The landlady placed on record rent receipts

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and rent agreement showing that there was landlord and tenant relationship and rent was being realized by her. On the other hand, the petitioner did not file any document in support of his contentions. The relationship of landlord and tenant was therefore fully established. The petitioner had also not come forward as to what commercial use the premises was being put. It was considered by the ARC that this objection was taken for the sake of taking objection. The objection that no Eviction Petition was filed against other tenant was also held to be not worth consideration in view of specific provision under Section 14 D (2) that the landlady can choose to file petition against one of the several tenants. The learned ARC considered the requirement of the landlady and came to conclusion that the defence put forward by the petitioner was flimsy and the petitioner had no prima facie case. The details of accommodation were undisputed. The petitioner had not filed any site plan before the ARC to show that the accommodation available in the premises was different from what was stated by the landlady. In fact, the petitioner's pleadings show that the accommodation was correctly stated by the landlady. It was not disputed that son of deceased Sh. Ram Kumar Sharma namely Parimal Sharma was living partly at first floor and partly at ground floor with his family members. It was not disputed that on the second floor there was

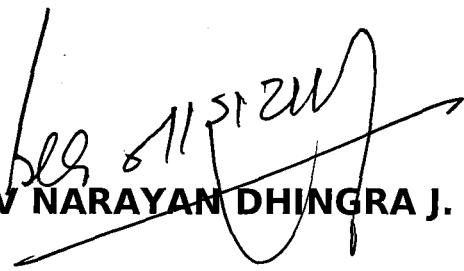
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only one store and toilet. It was not disputed that the two rooms and a kitchen were occupied by other tenants. It was also not disputed that landlady was aged 75 years and her daughters used to come and stay with her. In view of these undisputed facts and looking at the accommodation available with the landlady who was jointly living with her son, the learned ARC came to conclusion that the widow/landlady required the premises for herself.

7. It is settled law that standard of proof under Section 14 D is not as rigorous as under Section 14(1)(e). Under Section 14 D, the tenant has practicably no defence whatsoever and has to yield the possession to the landlady who become widow and required premises for her own residence. The fact that widow was living with her son or daughters or any other person was no ground to deny her separate residence or to say that the premises was not required by her for her residence.

8. I find no infirmity in the order of the learned ARC, neither the order is beyond jurisdiction. There is no error apparent on the face of record. The Revision Petition is hereby dismissed being without merits.

August 12, 2008
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SHIV NARAYAN DHINGRA J.