

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

% RCR NO. 131/2010

+ Date of Decision: 17th October, 2011

DARSHAN SINGH ...Petitioner

! Through: Mr. V. Gangotra, Advocate

Versus

\$ RAMESH CHOPRA Respondent

**Through: Mr. Shiv Charan Garg &
Mr. Imran Khan, Advocates**

CORAM:

*** HON'BLE MR. JUSTICE P.K.BHASIN**

- 1. Whether Reporters of local papers may be allowed to see the judgment?(No)**
- 2. To be referred to the Reporter or not? (No)**
- 3. Whether the judgment should be reported in the digest? (No)**

ORDER

P.K BHASIN,J:

This is a revision petition filed under Section 25-B (8) of the Delhi Rent Control Act, 1958 (in short 'the Act') by the petitioner for setting aside the order dated 05.03.2010 passed by the Rent Control Tribunal whereby it has upheld the eviction order dated 02.12.09 passed in E-16/09/04 by the Additional Rent Controller against the petitioner herein in

respect of the accommodation on the second floor of property no. 12-A/39 W.E.A., Karol Bagh, New Delhi (herein after referred as the 'premises in dispute').

2. According to the case of the respondent, as pleaded in the eviction petition under Section 14(h) of the Act, the petitioner was the tenant in respect of premises in dispute consisting of two rooms, one kitchen, one store, latrine and bathroom on the second floor and the same were let out for residential purposes and were being used as such by the petitioner. It was further pleaded by the respondent that his tenant(petitioner herein) had acquired possession of the premises no. 7/11, East Patel Nagar, New Delhi and that acquisition of his own residential house had made him liable to be evicted from the premises in dispute.

3. The eviction petition was resisted by the petitioner herein on the ground that there was no landlord and tenant relationship between the parties and further that since he was a practicing advocate the premises in dispute were being used by him for residence as well as well for running his office. It was also pleaded that he was also using the premises in dispute for publishing his some journals. The petitioner in his written

statement admitted having purchased the property in East Patel Nagar, as was claimed by the respondent herein, but claimed that that sale was a benami sale and the real owner was his son who was a citizen of Canada and who had paid the entire cost also and subsequently (after the filing of the eviction petition) the same had been transferred by way of gift to his son's wife.

4. The learned Additional Rent Controller vide order dated 02.12.09 allowed the eviction petition after rejecting the defence of the petitioner herein that there was no relationship of landlord and tenant between him and the petitioner before him (respondent herein) and also that the property acquired by him in East Patel Nagar was actually owned by his son though purchased in his own name. The petitioner then filed an appeal before the Rent Control Tribunal which however dismissed the same vide impugned order dated 05.03.10. Hence, this revision petition.

5. It was argued by the learned counsel for the petitioner that there was no evidence adduced by the respondent to establish the relationship of landlord and tenant between him and the petitioner and both the Courts below have committed a serious illegality in coming to the conclusion that

such a relationship had been established because the petitioner himself had been filing applications under Section 27 of the Act for deposit of rent in respect of the premises in dispute in the name of the respondent ignoring the fact that the respondent had in those proceedings claimed that the petitioner was in fact an unauthorized occupant of the premises in dispute and in view of that stand taken by him the Controller had not allowed any of the applications under Section 27. Counsel further contended that even the Rent Control Tribunal erroneously upheld the decision in that regard of the Additional Rent Controller and consequently judgments of both of them are liable to be set aside.

6. On the other hand, learned counsel for the respondent supported the judgments of the learned Additional Rent Controller as well as the Rent Control Tribunal and submitted that there was no scope for interference by this Court in exercise of its revisional jurisdiction and particularly when both the Courts below have concurrently held that there was relationship of landlord and tenant between the parties and further that the petitioner herein had acquired a residence in East Patel Nagar.

7. After having given my thoughtful consideration to the rival submissions of the counsel for the parties and going through the trial Courts' records I find that there is no merit in this revision petition and it is liable to be dismissed. As far as relationship of landlord and tenant between the parties is concerned, the two Courts below have concurrently accepted this relationship on the ground that the petitioner himself had been filing applications under Section 27 of the Act admitting the respondent herein to be his landlord. Apart from that, I also find that in his evidence, the petitioner had claimed that he had been let out the premises in dispute by one Smt. Suhinder Kaur. The respondent has placed on record a sale deed showing that he had purchased the property no. 11-A/31, W.E.A. Karol Bagh, New Delhi from the son of Smt. Suhinder Kaur after her death. That sale deed is dated 17th April, 1995 and its certified copy is Ex. PW-1/1. In these circumstances, the petitioner had become the tenant of the respondent by operation of law as well and infact that appears to be the reason for the deposit of rent by the petitioner in the name of the respondent herein accepting him to be the landlord. In those applications it was not claimed by the petitioner that he had any

doubt in his mind as to who was his landlord. The respondent also then accepted him to be his tenant and so he filed this evition. Therefore, no fault can be found with the findings of the two Courts below that there was a relationship of landlord and tenant between the parties herein and the respondent.

8. The two Courts below have also accepted the respondent's case that his tenant, the petitioner herein, had acquired residential premises in East Patel Nagar. As noticed already, the petitioner himself had also admitted this fact. Though he had also claimed that the purchase of that property by him was a benami transaction but no effort had been made by him to substantiate that plea. Therefore, on this aspect also the findings of the two Courts below cannot be faulted.

9. The petitioner had in his written statement taken the plea that the erstwhile owner Smt. Suhinder Kaur had let out the premises in dispute to him for the purposes of residence as well as for non-residential use. However, except for his own statement to that effect no other evidence was adduced by him to establish this plea and consequently the Courts

below were justified in rejecting the same and there is no scope for any interference by this Court.

10. This revision petition, thus, being devoid of any merit, is dismissed.

P.K. BHASIN,J

October 17, 2011