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

+ RC.REV. 435/2011 & CM Nos.19891-93/2011

TARACHAND ... Petitioner
Through: Mr.Saurabh Mishra, Advocate.
versus

SATWANIT DEVI DECD THR LRS ... Respondent
Through: Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

% **ORDER**
01.11.2011

Order impugned is the order dated 20.8.2011 vide which the application for leave to defend filed by the tenant in a pending petition under Section 14(1)(e) of the Delhi Rent Control Act (hereinafter referred to as 'the DRCA') had been dismissed.

Landlord 'Satwanti Devi had filed the present petition against her tenant Tara Chand seeking eviction on the ground of bonafide requirement qua one room with a common latrine and a bath room on the ground floor of property No.B-222, Hari Nagar, New Delhi. Contention was that the petitioner/landlady aged 72 years was living with her husband aged 74 years in the neighbouring property bearing No.B-210, Hari Nagar, New Delhi which comprised of two rooms on the ground floor and a room on the first floor. Admittedly the petitioner was a heart patient on the date of the

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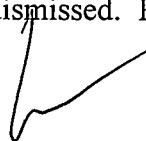
institution of the petition and had also suffered a paralytic stroke. The landlady has two sons both of whom were residing at Vaishali, Ghaziabad. The bonafide requirement for eviction of the present property was for the reason that since both the husband and wife were senior citizens and suffering from serious ailments they would require the presence of their married son in the neighbouring property comprising of one room with a common latrine and bath at property bearing No.222, Hari Nagar, New Delhi.

The ground raised by the tenant in the application for leave to defend was that both the sons of the landlady are residing in Vaishali, Ghaziabad in a government accommodation and thus the bonafide need of the landlady is fanciful and it is actually not bonafide. Moreover the accommodation with the petitioner is sufficient to accommodate herself and her sons; the petition has been filed malafide; these were the grounds raised in the application for leave to defend.

The impugned order has dealt with each of these contentions in the correct perspective. Even presuming that both the sons were living in a government accommodation which was admittedly in Vaishali, Ghaziabad, U.P.; considering the fact that the parents of the children were both senior citizens and the mother was suffering from a serious heart ailment as also the fact that the father was also a patient of heart illness (substantiated by medical record), the bonafide need of the petitioner was clearly made out. The senior citizen parents wanted the comfort of living close to their married son; admittedly the accommodation which was with the landlady comprised of

three rooms i.e. one bed room, one guest room and one drawing room; which was located at B-210, Hari Nagar, New Delhi; this accommodation was not sufficient to accommodate the family of her married son; the disputed property, which is in the neighbourhood, comprising of one room with the facility of common bath room and toilet was closely located at B-222, Hari Nagar, New Delhi. The petitioner had well established that the presence of her son and his family in the neighbourhood would be a sure comfort factor to the aged couple who at any point of their life could require medical assistance which could only surely be given by their son and in these circumstances if the married son was accommodated in the neighbourhood this would definitely be for the benefit of the senior couple.

The Apex Court has time and again reiterated that it is not for the tenant to dictate terms to the landlord; he is not to decide the manner and the style of the living requirements of the landlord. In the present case the need of the landlord has been established to be bonafide; accommodation presently with the landlady was not sufficient to accommodate her married son; the averments made in the application for leave to defend has raised no triable issue. Application for leave to defend was rightly dismissed. Present petition has no merit. Dismissed.



INDERMEET KAUR, J

NOVEMBER 01, 2011
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