

\$~33

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RC.REV. 433/2011

SANJEEV KUMAR & ORS

..... Petitioners

Through

Mr. Pratyaksh Kumar, Advocate.

versus

JASHU BALA

..... Respondent

Through

Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

%

31.10.2011

The order impugned before this Court is the order dated 07.05.2011. The application for leave to defend filed by the tenant in a petition under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA) had been dismissed. The disputed premises are the first floor of property No. 16/29-A, Moti Nagar, New Delhi. The premises had been let out by the mother of the landlord to the father of the tenant; it is not in dispute that the property was originally owned by the Shanti Lal; after his death he had bequeathed it to his wife Leela Wati who is mother of the present landlord. Thereafter Leela Wati and her two daughters had executed a deed of relinquishment in favour of the present petitioner whereby she had become the sole owner of the suit property; mutation had also been effected in the L & DO. The only ground taken in the leave to defend which as per the tenant makes out a triable issue is that the petitioner was not the owner of the said premises; contention being that Shanti Lal had bequeathed this property in favour of his

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.

2

wife Leela Wati to the exclusion of all other children and she is the owner. Leela Wati has since died.

It is not in dispute that an earlier eviction petition filed by Leela Wati under Sections 14 (1)(a), 14 (1)(e) and 14 (1)(D) of the DRCA qua the suit property reply had been filed by the tenant wherein he had admitted that the present petitioner Jashu Bala is a co-owner in the suit property; even today before this Court it is not in dispute that Jashu Bala is a co-owner; the only objection being that Jashu Bala is a co-owner of the suit property with her other two sisters i.e. after the demise of Leela Wati, the property had devolve upon all the three sisters equally and Jashu Bal is alone the owner; the present petition is not maintainable in the present form.

The petitioner is admittedly the co-owner in the suit property. Even presuming for the sake of argument that the petitioner is not the exclusive owner and is a co-owner with her other two sisters the eviction petition for bonafide requirement can be filed by a co-owner also; there is no bar. The present petitioner had pleaded the ground of bonafide requirement; her submission being that she is residing in a tenanted premises and wanted to shift in her own premises; there is also no dispute to this factum. She had pleaded herself a complete owner; even otherwise, a co-owner can also file an eviction petition under Section 14 (1)(e) of the DRCA. This being the only issue raised by the tenant/petitioner and not amounting to a triable issue; petition has no merit; it is dismissed.



INDERMEET KAUR, J

OCTOBER 31, 2011

a