

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

% *Date of Judgment: 18.01.2012.*

+ **R.C.R. No. 209/2011**

RANJIT SINGH SETHI ..... Petitioner  
Through Mr. Shailendra Babbar, Adv.

versus

GURMEET SINGH CHAWLA ..... Respondent  
Through Mr. Amarjit Singh, Adv.

**CORAM:**  
**HON'BLE MS. JUSTICE INDERMEET KAUR**

**INDERMEET KAUR, J.** (Oral)

1 Impugned order dated 24.02.2011 had dismissed the application for leave to defend filed by the tenant and decreed the eviction petition filed by the landlord under Section 14 (1)(e) of the Delhi Rent Control Act (hereinafter referred to as the 'DRCA').

2 Record shows that this eviction petition has been filed by the landlord Gurmeet Singh Chawla seeking eviction of the shop in property No. X/922, Private No. 3, Chand Mohalla, Gandhi Nagar, Khasra No. 121, Delhi which was under the tenancy of the tenant Ranjit Singh Sethi. The petitioner claims himself to be owner of the suit property; the property was original owned by his father Hardev Singh who had sold it to him vide a registered sale

deed dated 22.06.2000; it is not in dispute that the tenant had attorned to the present landlord and has been paying rent to him. Contention of the petitioner before this Court is that the sale deed suffers from an infirmity and the shop under the tenancy is not the subject matter of the sale deed; this contention now raised was never a part of his pleadings i.e. a part of his leave to defend application; this argument now propounded cannot be gone into in the absence of a pleading to the said effect; even other in view of the fact that there is a registered sale deed in favour of the petitioner as also the admitted fact that the tenant was paying rent to the landlord, in view of the provisions of Section 116 of the Evidence Act there is little scope for argument left to the tenant on this score. The trial Court had rightly noted the landlord-tenant relationship and ownership of the landlord stood established. This does not in any many raise a triable issue.

3 The other ground urged by learned counsel for the petitioner is that the petitioner is a confused man; he is blowing hot and cold; he in one breath requires this shop for the expansion of his business and in the second breath his requirement for this shop is for a guest room and a puja room; contention is that the need of the landlord is not bonafide; it is malafide.

4 The site plan is a relevant document. It has been perused. It

is not in dispute that the shop in question is on the ground floor from where the tenant is running photo studio under the name and style of 'Jolly Photo Studio'; adjacent to this shop is a bakery shop where the landlord along with his family is carrying on his business. The contention of the landlord in his eviction petition is that both his sons are men of means; they are income tax payees; both of them are married; they have wives and three children each. The entire family is occupying the first floor and the third floor; the second floor is under the tenancy of an old tenant; his contention is that the space from where the bakery shop which is being run by the family is falls short; two employees are permanently working in the shop; the size of the shop is small; the entrance is also small; the disputed shop is adjacent to the shop of the landlord from where he is running his bakery shop. After breaking the partition wall, the main entrance of the shop will be increased and the area of the shop will also be enhanced to enable the petitioner and his family to carry out his business in a profitable manner as the present accommodation falls short; because of this shortage of space, his other two sons are not able to assist him as not enough income can be generated from this small shop; other family members i.e. his sons also wish to join his business; this is the bonafide need which is pleaded.

5 The description of the tenanted shop and the fact that it is adjacent to the bakery shop from where the landlord is carrying on his business has been substantiated in the site plan; it is clear that if the intervening wall between the two shops is broken, the area of the bakery shop will be increased and so also entrance of the shop. The landlord has specifically pleaded that he has no other commercial shop from where his business activity can be carried out; thus this first shop is required by him bonafide. The bonafide need of the landlord has been established.

6 The submission of the learned counsel for the petitioner that the landlord is blowing hot and cold is worthy of no credit. The landlord has clearly and categorically stated that he requires this shop for the expansion of his business as after breaking the intervening partition wall, the area of the shop will be increased to enable sons of the petitioner to join them future in the business which is present become run from the present shop which is very small. This submission is amply substantiated from the site plan.

7. No other submission has been urged or argued.

8 The Apex Court has time and again said that the landlord is the best Judge of his requirement and it is neither open to the tenant nor to the Court to dictate the landlord on this aspect both

with respect of his requirement for a residential or commercial premises.

9 In Sait Nagjee Purushotham & Co. Ltd. Vs. Vimalabai Prabhulal and Others, (2005) 8 Supreme Court Cases 252; the Court observed as under:

*"It is always the prerogative of the landlord that if he requires the premises in question for his bona fide use for expansion of business this is no ground to say that the landlords are already having their business at Chennai and Hyderabad therefore, it is not genuine need. It is not the tenant who can dictate the terms to the landlord and advise him what he should do and what he should not. It is always the privilege of the landlord to choose the nature of the business and the place of business."*

10 In Sudesh Kumar Soni & anr. Vs. Prabha Khanna & Anr., 153 (2008) Delhi Law Times 652, the Court observed as under:-

*"It is not for tenant to dictate terms to landlord as to how else he can adjust himself without getting possession of tenanted premises-suitability has to be seen for convenience of landlord and his family members and on the basis of circumstances including their profession, vocation, style of living, habit and background."*

11 The impugned order decreeing the eviction petition of the landlord and dismissing the application for leave to defend filed by the landlord suffers from no infirmity. Petition is without any merit. Dismissed.

**JANUARY 18, 2012/A**

**INDERMEET KAUR, J**