

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

+ R.C.REV. 271/2012

Date of Decision: 04.10.2012

SUDERSHAN LAL ARORA Petitioner

Through: Mr.Rizwan Ahmed Khan,
Advocate.

Versus

JASWINDER PAL SINGH BHATIA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

M.L. MEHTA, J.

1. This revision petition under Section 25-B(8) of the Delhi Rent Control Act (for short 'the Act') impugns order dated 21.03.2012 of the Additional Rent Controller (ARC) North, whereby leave to defend application filed by the petitioner, in the eviction petition, was dismissed.

2. The petitioner is tenant in respect of one shop with two shutters on the ground floor of property bearing No.2026,Gali No.157,Tri Nagar, Delhi-35, which was let out to him by the mother of respondent herein, at a monthly rent of Rs.550/- per month, excluding electricity and other charges. His eviction is sought by the respondent/landlord on the ground of bonafide requirement of the tenanted premises for the

needs of his elder son to start a new business. It is stated that the respondent has two sons and a married daughter. The tenanted premises is stated to be required by the respondent for his elder son Sahib Singh Bhatia, aged about 25 years and, a qualified mechanical engineer for setting up business of trading of auto/machine parts, who is unable to start his own business, due to non-availability of commercial space. It is averred that the elder son of respondent is dependent upon him for commercial space to start his own business. The younger son of respondent is also stated to be pursuing B.Tech in 2nd year.

3. The petitioner filed leave to defend application on various grounds. The learned ARC vide the impugned order declined leave to defend application, and he consequently, passed the eviction order against the petitioner. The said order is challenged in the instant petition

4. Being mindful of the scope and extent of revisional power of this court under Section 25-B (8) of the Act, which is not that of the appellate power, I have examined the impugned order in the light of the averments taken by the petitioner in the leave to defend application. The learned counsel for the petitioner has assailed the impugned order stating that the petitioner has raised various triable issues, which have been erroneously negated by the learned ARC.

5. In the instant case, the petitioner alleged the respondent/landlord as a habitual litigant, having earlier filed two petitions being No.E-228/2002 and No. E-167/2007. In response to this, the respondent/landlord has stated that since the petitioner had been enjoying the premises without paying rent, therefore, the respondent was compelled to file the petition u/s 14(1) (a).

6. The petitioner had also alleged the need of respondent as mala fide, since the son of the respondent will never engage himself in such a petty business of Auto parts, as he could get plenty of jobs with handsome salary of more than Rs. 50,000/- p.m. The learned ARC has observed, and rightly so, that the petitioner has no right to dictate upon the respondent and his son as to how he should pursue his career, and that this contention is an imaginary and without any basis.

7. The petitioner alleges that the son of the petitioner is not dependent on the respondent. In a catena of judgments, and reference can be made to ***Labhu Lal Vs. Sandhya Gupta 2011(1) RCR, (Rent) 231 (Delhi)***, wherein it has been held by this Court that the children are very much dependant on the landlord for the purpose of setting up their business and such a requirement is a bonafide one. The right of the landlord for possession of his property for setting up a business for his son has been also recognized by the Apex Court in ***Ram Babu Aggarwal Vs. Jay Kishan Das 2009(2) RCR 455***.

8. It has been contended by the petitioner that the respondent is the owner of two other shops on the ground floor of the same premises. It is noted here that in the eviction petition, the respondent has himself averred that the said two shops on the ground floor are occupied by the other tenants and thus, are not lying vacant. The learned ARC has observed, and rightly so, that the ownership of these two shops does not make them alternate accommodation available with the respondent since the same are under the tenancy of two old tenants, inducted by mother of the respondent.

9. The petitioner has also alleged that some portion is lying vacant in the form of kitchen and verandah on the ground floor of the premises in question, and the said portion can be converted into the shop for the alleged need of son of respondent. The learned ARC held, and rightly so, that the tenant has no right to dictate the landlord how and in which manner he should adjust himself, without obtaining the possession of the suit premises.

10. Admittedly, the petitioner is in tenancy of the suit premises since last about 30 years. Now, the aforesaid son of the respondent/landlord being grown up, with the passage of time, the requirement of the premises must have increased. One cannot lose sight of the fact that the son of the respondent/landlord is now of marriageable age and in due course, his need of accommodation is likely to further increase, not only for residence, but also for business purpose.

11. The other pleas which are taken by the petitioner that the respondent tried to dispossess him, to get high rental value or to sell the same, are all irrelevant and imaginary.

12. In view of my above discussion, I do not see the petitioner having raised any triable issue and thus, there is no infirmity or illegality in the impugned order of ARC, warranting any interference by this Court. The petition has no merit and is hereby dismissed.

M.L. MEHTA, J.

OCTOBER 04, 2012

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