

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

+ RC REV. 254/2010

Date of Decision: 04.09.2012

SANTOSH CHAND GOEL

..... Petitioner

Through: Mr. Vikram Nandrajog,
Mr.Sushil Jaiswal, Adv.

Versus

VINAY GUPTA

..... Respondent

Through: Mr.Yogendra Nath, Adv.

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

M.L. MEHTA, J. (Oral)

1. This revision petition under Section 25B of the Delhi Rent Control Act (for short the 'Act') impugns the judgment dated 2.7.2010 of the Addl. Rent Controller (ARC), whereby the eviction petition being E-289/2008 filed by the petitioner, seeking eviction of the respondent, was dismissed.

2. The respondent is a tenant under the petitioner in respect of one shop in premises No. 1/9025, Main Babarpur Road, West Rohtash Nagar, Shahdara, Delhi @ Rs. 230/- per month exclusive of electricity charges. The tenanted premises was in fact let out to the husband of the respondent somewhere in 1973. The eviction of the respondent was sought by the petitioner under Section 14(1)(e) of

the Act on the ground of bonafide requirement thereof by himself and his sons, stating them to be dependent upon him. On leave to defend being granted, the respondent filed written statement and contested the eviction petition. During the trial, the petitioner examined himself as PW1 and the respondent examined herself as RW1. Vide the impugned order, the learned ARC dismissed the eviction petition holding that the petitioner, being aged person and not being physically fit, was unable to carry any business and that all his sons, not being dependent upon him financially or otherwise, and having their independent businesses, the projected need of the premises required for himself and his sons, was not made out. Consequently, he dismissed the eviction petition.

3. The impugned judgment is challenged by the petitioner vide the instant revision petition.

4. Before advertng to the submissions made by the learned counsels for the parties, I must reiterate that the power of this Court under Section 25–B (8) Act are not as wide as those of Appellate Court, and in case it is found that the impugned order is according to law and does not suffer from any jurisdictional error, this Court must refrain from interfering with the same. The power under this provision is limited and supervisory in nature. Only when it is evident that the Rent Controller has committed grave illegality or came to a conclusion which was not possible, based on the material

produced, should this Court interfere in the orders passed by the Rent Controller.

5. The case set up by the petitioner was that he is aged about 64 years and is doing the trading business. He has five sons namely Sandeep, Rajesh, Praveen, Vikas & Amit. None of his sons has any shop for trading purpose or for selling electric cables being manufactured by them. He thus, needed at least six shops for carrying the business by himself and his sons, who are dependent upon him for the purpose of business premises. At present, he had only three shops including the one in the tenancy of the respondent.

6. The respondent has taken preliminary objection that the petition is bad for non-joinder of the necessary parties as all the LRs of the deceased/tenant have not been impleaded. On merits, the relationship of landlord and tenant was denied. It was submitted that after the death of her husband, the respondent, with her sons and daughters as also mother, became the tenant in respect of the tenanted premises. The bona fide requirement of tenanted shop by the petitioner or for the business purpose by his sons, was denied. It was alleged that the sons of the petitioner are not dependent upon him, as they are all carrying their businesses independently, for the last several years, at different places and living at different places.

7. The submissions which are raised before me by the learned counsel for the petitioner assailing the impugned judgment are similar to which were raised before the ARC, namely, the petitioner bona-fidely required the tenanted premises for the trading businesses of his sons, who do not have any commercial space of their own and were dependent upon him for their needs for commercial premises.

8. With regard to the plea raised by the respondent regarding the petition being bad for non-joinder of all the LRs of her deceased husband, the learned ARC has noted, and rightly so, that the respondent in her cross examination, has admitted that only she had been paying the rent to the petitioner, after the death of her husband, and that, only she had been running the business in the tenanted shop. Accordingly, this contention of the respondent was rightly repelled by the learned ARC. With regard to the bona fide requirement of the petitioner for himself and his sons, the learned ARC referred to the statement of the petitioner recorded as PW1. He had stated that he has five sons and none of them had any shop for trading business or for the sale of electric cables, paint, brush, PVC components etc. being manufactured by them. Though, he had stated that he required at least six shops for carrying on the businesses by himself and by his five sons, he stated that out of three shops on the ground floor, two were in the possession of other tenants and one was with the respondent. He had admitted at different places in cross examination that all his sons have been

doing their independent businesses for the last several years. So much so, he had stated that none of his sons is financially dependent upon him. He stated that he had no interest of any kind in the businesses of any of his sons. He even did not have any knowledge of the turn-over, production etc. of the businesses of his sons. He admitted that all his sons were involved in manufacturing of the aforesaid items at different places under different names and they were earning their livelihood independently and separately and none of them was dependent upon him for any purpose. He even admitted that the business of manufacturing of paint, brush, which he was earlier doing, is also being looked after by one of his sons and due to his old age and physical condition, he was not in a position to carry out any business or work. He has not led any evidence to prove that his other two shops are with the tenants. None of his sons has come forward to support his version or claim that they required the tenanted premises. The petitioner seems to making wild wishes for his sons, who do not seem to be bothered about him or his property or even dependent upon him for any purpose, whatsoever. With this evidence being on record, the learned ARC recorded, and rightly so, that the needs of the sons of the petitioner as reflected in the petition, are sham and bogus, and since the petitioner himself was not able to carry out any business any longer and was in fact, not doing any work, the tenanted premises was neither required for himself or for any of his sons, and further that none of his sons was dependent upon him financially or

otherwise. I do not see any infirmity or illegality in the appreciation of evidence by the learned ARC. In view of all this, finding no merit in the petition, the same stands dismissed.

M.L. MEHTA, J.

SEPTEMBER 04, 2012

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