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

+ **RC.REV. 320/2017**

MOHD SHAHID

..... Petitioner

Through: Mr. Varun Goswami, Mr. Rajesh
Singh & Mr. B.S. Nagar, Advs.

Versus

**RAISA BEGUM (NOW DECEASED) THR HER
LEGAL HEIRS & ANR**

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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18.07.2017

1. This petition under Section 25B (8) of the Delhi Rent Control Act, 1958 impugns the order (dated 7th March, 2017 of the Pilot Court (Central District), Tis Hazari Courts, Delhi in E-56/17/13, Registered ID No.478933/2016 filed by the respondents / landladies viz. Raisa Begum and Sahibzadi for eviction of the petitioner from shop in property No.1550, Suiwalan, Daryaganj, Delhi under Section 14(1)(e) of the Act), after full trial, of eviction of the petitioner / tenant.
2. The counsel for the petitioner / tenant has been heard.
3. The learned Additional Rent Controller (ARC) in the impugned order of eviction has observed / held i) that though the shop had been let out by the respondents / landladies to the father of the petitioner / tenant but the petitioner / tenant did not dispute that after the demise of the father, he only was paying the rent of the shop to the respondents / landladies; ii) that in this view of the matter, there was no merit in the plea of the petitioner / tenant of besides him, other natural heirs of his father also being tenants and having not been impleaded as tenants in the petition for eviction; iii) that since

petitioner / tenant only, after the demise of his father, was paying rent to the respondents / landladies and the other heirs of the father were not tendering rent, they had impliedly surrendered the tenancy of the shop; iv) reference was made to ***Mohd. Usman Vs. Surayya Begum*** 1990 (3) Delhi Lawyer 163 (I may however notice that the said judgment was subject matter of appeal to the Supreme Court decided as ***Surayya Begum Vs. Mohd. Usman*** (1991) 3 SCC 114 and the Supreme court held that one of the heirs of the deceased tenant represents the entire estate and the petition for eviction is not bad for non-impleadment of all the heirs of the tenant as long as one or some of the heirs have been impleaded); v) that though it was the plea of the petitioner / tenant that the respondents / landladies had earlier filed a petition for eviction under Section 14(1)(a), (c), (e), (h) and (j) but had withdrawn the petition on the ground of Section 14(1)(e) of the Act but the requirement pleaded in the earlier petition for eviction was for residential purpose and the requirement pleaded now of the premises in the tenancy of the petitioner / tenant is for commercial purpose; vi) that though the petitioner / tenant pleaded that the respondents / landladies had other commercial premises available for their need but the petitioner / tenant in his evidence admitted that three of the alternative premises pleaded as available were not available and another was in occupation of the tenant in possession thereof; vii) with respect to another alternative premises pleaded, the petitioner / tenant in his evidence admitted that the said premises was residential; and, viii) that thus the petitioner / tenant has been unable to prove availability of any alternative accommodation to the respondents / landladies for the need pleaded and

proved of commercial premises.

4. The counsel for the petitioner / tenant has before me also laid emphasis only on non-impleadment of the other heirs of the father of the petitioner / tenant. It is contended that as per dicta of the Supreme Court in ***Gian Devi Anand Vs. Jeevan Kumar*** 1985 (2) SCC 683, commercial tenancy is inherited by all the heirs. Reference in this regard is made to the judgment dated 5th December, 2013 in CM(M) No.880/2012 titled ***Rakesh Jain Vs. Suresh Kumar Kohli*** and to the judgment dated 22nd July, 2014 in CM (M) No.686/2014 titled ***Balbir Singh Kohli Vs. Suman Verma***.

5. There can be possibly be no dispute with respect to the aforesaid proposition of law. However all the natural heirs of a deceased / tenant, even if so inherit the tenancy rights, can always surrender / release the same in favour of one of them and which is the finding in this case, in fact on the admission of the petitioner / tenant himself.

6. Thus no ground of challenge to the order of ARC on this ground is made out.

7. I have even otherwise enquired from the counsel for the petitioner / tenant as to why the dicta of the Supreme Court in ***Surayya Begum*** supra is not applicable.

8. Again no answer has been forthcoming.

9. The order of eviction thus cannot be said to be not in accordance with law for the reason of non impleadment of other heirs of the father of the petitioner / tenant.

10. The counsel for the petitioner / tenant has next argued that the learned ARC did not give due weightage to the withdrawal of the earlier petition for

eviction filed by the respondents / landladies under Section 14(1)(e) of the Act.

11. I have enquired from the counsel for the petitioner whether the earlier petition for eviction was filed before the pronouncement of the Supreme Court in *Satyawati Sharma Vs. Union of India* 2008 (5) SCC 287 or thereafter.

12. The counsel for the petitioner has fairly stated that the earlier petition for eviction was filed prior to *Satyawati* supra.

13. However when the order is being dictated, he states that the earlier petition for eviction was filed on 30th July, 2008 and *Satyawati* was pronounced on 16th April, 2008.

14. However the counsel agrees that the requirement pleaded in the earlier petition for eviction was for residential purposes.

15. Even if it is to be believed that the earlier petition for eviction under Section 14(1)(e) was filed soon after the pronouncement of the judgment in *Satyawati*, it was obviously in ignorance of *Satyawati* which for the first time permitted eviction under Section 14(1)(e) of the Act for commercial needs of the landlord.

16. Thus no fault can be found in the reasoning of the ARC of no adverse inference being required to be drawn against the respondents / landladies from the factum of withdrawal of the earlier petition for eviction on the ground under Section 14(1)(e) of the Act and filing of fresh petition for eviction in terms of law laid down in *Satyawati*.

17. The counsel for the petitioner / tenant has then feebly attempted to urge the availability of alternative premises without however pointing out as

to how the findings on the basis of evidence returned in the impugned order are bad.

18. I have even otherwise enquired from the counsel for the petitioner / tenant as to what is wrong with the site plan filed by the respondents / landladies of the property and whether the petitioner / tenant in cross-examination of the respondents / landladies or their witnesses or in his evidence contradicted the said site plan by filing his own site plan.

19. The petitioner / tenant has not even chosen to file along with this Revision Petition the site plan filed by the respondents / landladies. Admittedly no site plan of his own was filed by the petitioner / tenant. The only inference which can be drawn therefrom is that the petitioner / tenant in this Revision Petition has not challenged the findings of the learned ARC with respect to the site plan proved before it inasmuch as no copy thereof also has been filed.

20. I have satisfied myself that the learned ARC has in the impugned order returned findings on the basis of the evidence led before him and the said findings are in accordance with law.

21. No ground for interference in revisional jurisdiction, within the meaning of *Shiv Sarup Gupta Vs. Dr. Mahesh Chand Gupta* (1999) 6 SCC 222 is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 18, 2017

‘gsr’..