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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RC.REV. 104/2014 AND CM No.4222/2014 (Stay)

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Decided on: 4th March, 2015

SHRI SRIRAM

..... Petitioner

Through: Mr. G.S.Gulati, Advocate.

versus

SMT BIMLA RANI & ANR

..... Respondents

Through: Mr. Bhupesh Kumar Varma,
Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J (ORAL)

1. The Petitioner challenges the order dated 30th October, 2013 whereby the eviction petition filed by the Respondent No.1 under Section 14 (1) (a) & (e) read with Section 25-B of Delhi Rent Control Act, 1958 (in short 'the DRC Act') was allowed and the Petitioner was directed to vacate the tenanted premises.

2. In the eviction petition, the Respondent No.1 stated that the Respondent had purchased the entire suit property bearing No. S-221/132A, Vishnu Garden, S-Block, New Delhi from the Petitioner and thereafter let out one room, kitchen and common WC and bathroom on tenancy at monthly rent of Rs.1,000/- on 2nd September, 2002 to the Petitioner. The Petitioner neither paid nor tendered rent w.e.f. 2nd October, 2002 despite two months legal notice dated 7th September, 2004 and 15th April, 2008. It was further stated that the Respondent No.1 bona fide required the suit premises for the reason that her husband Respondent No.2 was posted as

Divisional Engineer in MTNL, Delhi and thus it was very difficult for her husband to commute from Rohtak to Delhi every day. Further her younger son was a student of B.E. and was soon going to take admission in Delhi. The elder son who was settled in U.K. suffers great difficulty in coming to Rohtak as and when he comes to India as international flights generally arrive during night. Thus the Respondent No.1 along with her family wants to reside in the tenanted premises which is the only residential accommodation available to her.

3. In the written statement filed the Petitioner stated that there was no relationship of landlord-tenant between the parties. The Petitioner was in possession of the entire property except one room which had been forcibly occupied by the Respondents. The Petitioner had taken a loan of Rs.3 lakhs from the Respondents when the Respondent No.1 and her husband got signed blank papers from the Petitioner. The said documents were signed by the Petitioner as security of the money and there was no relationship of landlord and tenant. He further stated that he did not receive any notice and there was no requirement of the Respondents for the premises. In the written statement however, the Petitioner admitted that the husband of Respondent No.1 was a government servant and residing at Rohtak and one room of the suit premises was in possession of the Respondents. An order under Section 15 (1) of the DRC Act was passed on 6th July, 2009 which was not complied with and hence the defence of the Petitioner was struck under Section 15 (7) of the DRC Act.

4. The Respondent No.1 examined herself as PW-2 and exhibited the site plan, copy of the Agreement to Sell, Receipt, Rent Agreement, legal notice, postal receipt and AD Card and statement of the Petitioner dated 17th May,

2010 recorded in Suit No.430/2008 before the learned Civil Judge and the copy of the judgment in the said suit which was filed by the Petitioner seeking permanent injunction against the Respondent. The Respondent also examined witness from the Sub-registrar's office as PW-1 who brought the original records relating to General Power of Attorney and Will executed by the Petitioner in favour of the Respondent in respect of the entire premises.

5. The learned ARC in view of the evidence on record, particularly the finding of the learned Civil Court in the suit filed by the Petitioner, came to the conclusion that landlord-tenant relationship was established and that the Respondent No.1 had bona fide requirement for the reasons that though the Respondent No.2 was working in Delhi however, they were staying in Rohtak and he had to come out to Delhi daily. The eviction petition was also allowed on the ground of Section 14 (1) (a) of DRC Act for the reason that despite notice the rent had not been paid.

6. Before this Court the only issues raised by the learned Trial Court are that there was no relationship of landlord-tenant and merely on the strength of a Will and Power of Attorney the Respondent No.1 cannot claim herself to be the owner of the suit premises and the learned ARC wrongly relied upon the evidence and finding in the civil suit filed by the Petitioner.

7. For maintaining an eviction petition the landlord is not required to prove that he is the absolute owner of the property and he has only to prove that his claim to the property is better than the tenant. The legal position with regard to the evidence required to be adduced by the landlord for eviction under Section 14 DRC Act to show landlord tenant relationship is well settled. In Shanti Sharma Vs. Smt. Ved Prabha (1987) 4 SCC 193 it was held-

“14. The word “owner” has not been defined in this Act and the word ‘owner’ has also not been defined in the Transfer of Property Act. The contention of the learned Counsel for the appellant appears to be that ownership means absolute ownership in the land as well as of the structure standing thereupon. Ordinarily, the concept of ownership may be what is contended by the counsel for the appellant but in the modern context where it is more or less admitted that all lands belong to the State, the persons who hold properties will only be lessees or the persons holding the land on some term from the government or the authorities constituted by the State and in this view of the matter it could not be thought of that the legislature when it used the term “owner” in the provision of Section 14(1)(e) it thought of ownership as absolute ownership. It must be presumed that the concept of ownership only will be as it is understood at present. It could not be doubted that the term “owner” has to be understood in the context of the background of the law and what is contemplated in the scheme of the Act. This Act has been enacted for protection of the tenants. But at the same time it has provided that the landlord under certain circumstances will be entitled to eviction and bona fide requirement is one of such grounds on the basis of which landlords have been permitted to have eviction of a tenant. In this context, the phrase “owner” thereof has to be understood, and it is clear that what is contemplated is that where the person builds up his property and lets out to the tenant and subsequently needs it for his own use, he should be entitled to an order or decree for eviction the only thing necessary for him to prove is bona fide requirement and that he is the owner thereof. In this context, what appears to be the meaning of the term “owner” is vis-a-vis the tenant i.e. the owner should be something more than the tenant. Admittedly in these cases where the plot of land is taken on lease the structure is built by the landlord and admittedly he is the owner of the structure. So far as the land is concerned he holds a long lease and in this view of the matter as against the tenant it

could not be doubted that he will fall within the ambit of the meaning of the term “owner” as is contemplated under this section. This term came up for consideration before the Delhi High Court and it was also in reference to Section 14(1)(e) and it was held by the Delhi High Court in T.C. Rekhi v. Smt Usha Gujral [1971 RCJ 322, 326 (Del HC)] as under:

“The word ‘owner’ as used in this clause, has to be construed in the background of the purpose and object of enacting it. The use of the word ‘owner’ in this clause seems to me to have been inspired by the definition of the word ‘landlord’ as contained in Section 2(e) of the Act which is wide enough to include a person receiving or entitled to receive the rent of any premises on account of or on behalf of or for the benefit of any other person. Construed in the context in which the word “owner” is used in clause (e), it seems to me to include all persons in the position of Smt Usha Gujral who have taken a long lease of sites from the government for the purpose of building houses thereon. The concept of ownership seems now to be eclipsed by its social and political significance and the idea of ownership, in case like the present is one of the better right to be in possession and to obtain it. To accede to the contention raised by Shri Kapur would virtually nullify the effect of clause (e) and would render all such landlords remediless against tenants however badly they may need the premises for their own personal residence. I do not think such a result was intended by the legislature and I repel the appellant's contention. I consider it proper before passing on to the next challenge to point out that the word ‘owner’ as used in clause (e) in Section 14(1) does not postulate absolute ownership in the sense that he has an absolutely unrestricted right to deal with the property as he likes. To describe someone as owner, and perhaps even as an absolute owner, of property is to say two things: it is to assert that his title to the property is indisputable and that he has all the rights of ownership allowed by the legal system in question. Rights of ownership may, therefore, be

limited by special provisions of law and include in those provisions such as are in force in New Delhi according to which citizens are granted long leases of sites for constructing buildings thereon. Now, the words of a statute, though normally construed in their ordinary meaning, may contain inherent restrictions due to their subject matter and object and the occasion on which the circumstances with reference to which they are used. They call for construction in the light of their context rather than in what may be either their strict etymological sense or their popular meaning apart from the context (see Halsbury's Laws of England, Third Edn., Vol. 36 para 893 p. 394). The meaning of the word "owner" in clause (e) is influenced and controlled by its context and the appellant's construction is unacceptable because it seems to be quite clearly contrary to the reasonable operation of the statutory provision."

8. In Rajender Kumar Sharma Vs. Leela Wati, 155 (2008)DLT 383 it was held-

"12. It is settled law that for the purpose of Section 14(1)(e) of Delhi Rent Control Act, a landlord is not supposed to prove absolute ownership as required under Transfer of Property Act. He is required to show only that he is more than a tenant. In this case, the landlady had placed on record the documents by which she became owner. The attornment given by the erstwhile landlord in her favour as well as an admission made by the tenant by filing petition under Section 27 of Delhi Rent Control Act acknowledging the landlordship of landlady. Thus, the conclusion arrived at by the ARC regarding ownership and relationship of landlord and tenant were based on sound legal position and the cogent material before it."

9. It is thus settled that the landlord is not required to prove an absolute ownership and suffice it is that he has a better claim on the property than the tenant. The Respondent Bimla Devi examined herself as PW-2 and Shri

Anil Kumar PW-1 who was a LDC in the office of Sub-Registrar, Janak Puri, brought the summoned original record and exhibited the photocopies of the Power of Attorney and the Will executed by Shri Shri Ram son of Shri Khazan Chand in favour of Smt. Bimla Rani Devi as Ex.PW-1/A and Ex.PW-1/B respectively. Bimla Rani while appearing as PW-2 further exhibited the copy of the Agreement to Sell, copy of the payment receipt and Rent Agreement vide Ex. PW-2/4. Bimla Rani was not cross-examined despite opportunity and thus the evidence of Smt. Bimla Rani, Respondent No.1 has gone unrebutted. The Respondent No.1 also produced on record the statement of the Petitioner in the civil suit filed by the Petitioner seeking injunction against the Respondents. In the said suit in cross-examination, the Petitioner herein i.e. Shriram admitted execution of the General Power of Attorney and the Will which were registered documents. He also admitted that the possession letter bore his signatures on each and every paper and the same was his answer for the receipt and the Rent Agreement. He also admitted having received the legal demand notices dated 17th September, 2004 and 15th April, 2008 from the Respondents. Thus these admissions of the Petitioner before the learned Civil Judge are sufficient to conclude the landlord-tenant relationship between the parties.

10. The contention of the learned counsel for the Petitioner that the documents or order in the other suit could not be used in the present proceedings is unfounded an admission of a party even though in a previous proceeding can be used in evidence. Moreover, during the admission/denial of the document in the eviction proceedings learned counsel for the Petitioner on 6th July, 2009 admitted the General Power of Attorney, Will,

Agreement to Sell, Possession Letter, Rent Agreement executed between the Petitioner and the Respondent No.1.

11. In Nagindas Ramdas vs. Dalpatram Ichharam alias Brijram and Ors, 1974 (1) SCC 242 the Supreme Court held that admissions, if true and clear, are by far the best proof of the facts admitted. Admissions in pleadings or judicial admissions, admissible under Section 58 of the Evidence Act, made by the parties or their agents at or before the hearing of the case, stand on a higher footing than evidentiary admissions. The former class of admissions are fully binding on the party that makes them and constitute a waiver of proof. They by themselves can be made the foundation of the rights of the parties. On the other hand, evidentiary admissions which are receivable at the trial as evidence, are by themselves, not conclusive. They can be shown to be wrong.

12. Thus the learned Trial Court committed no error in drawing conclusions from the statements of the Petitioner made on oath in Civil Suit No.430/2008 filed by him.

13. Consequently, I find no merit in the petition. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

MARCH 04, 2015
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