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

\+   **CM(M) 120/2015**

%   Decided on: 12th February, 2015

RAMESH KUMAR JAITLEY & ORS ..... Petitioner
Through Mr. Vivek Kumar Tandon, Mr. Sandeep S. Duggal, Advs.

versus

SATPAL GROVER & ANR ..... Respondent
Through None

Coram:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CM 2490/2015

Exemption allowed subject to just exceptions.

CM(M) 120/2015 & CM 2489/2015 (stay)

1. The petitioner was directed to be evicted by the learned ARC on 24th July, 2013 on a petition for eviction filed by the respondents under Section 14(1)(b) of the Delhi Rent Control Act, 1958 (in short the DRC Act). This order has been affirmed on appeal vide the impugned judgment dated 24th January, 2015 passed by the Rent Control Tribunal.

2. In the eviction petition, the respondents stated that they were the owners/landlord of the tenanted premises/shop at property bearing No.

18/51, East Patel Nagar, New Delhi 110008 on the ground floor wherein the petitioner No.1&2 were inducted as a tenant on a monthly rent of ₹ 450/- excluding electricity and water charges vide rent note dated 4th January, 1994. It was further stated that petitioner No.1&2 unauthorizedly, illegally and without the written consent, knowledge and permission of the respondents sub-let/assigned and/or parted with the possession of the tenanted premises in favour of petitioner No.3 who is presently using/occupying and was in possession of the premises independent of petitioner No.1&2 or any of their family members.

3. In the written statement, the petitioners stated that they had not sub-let the premises to petitioner No.3 and the premises continued to belong to petitioner No.1&2. It was stated that till 2005-06 petitioner No.1&2 were themselves running the petitioner No.3 which was a partnership firm but as petitioner No.1&2 were not well and not able to carry on the business so they appointed the staff to manage the same. The staff so appointed takes the keys from their residence for opening the tenanted premises in the morning and returns the same in the evening. It is further stated that the respondents purchased the suit premises for a consideration of ₹66,50,000/- out of which ₹30 lakhs were to be paid to the petitioner No.1&2, and that petitioner No.1&2 had agreed to vacate the premises after getting the amount of ₹30 lakhs. Since the respondents failed to make the payment, the tenanted premises were not vacated.

4. Evidence was led by the parties. There is no dispute with regard to landlord tenant relationship except stating that the respondents purchased the property from the erstwhile owner for a consideration of ₹66,50,000/- out of

which ₹30 lakhs were to be given to the petitioners and in this regard registered sale deed dated 23rd October, 2007 exhibited as Ex.PW-1/1 was relied upon. The respondents purchased the suit premises from the erstwhile owner i.e. Smt. Chandan Gujral, W/o Satish Kumar Gujral and Shri Ankur Kapoor, General attorney of his mother Smt. Sangeeta Kapoor. The consideration of ₹30 lakhs having been not paid to the petitioners for vacation of the tenanted premises would not nullify the sale deed Ex.PW-1/4. Further the non-payment of ₹30 lakhs to the petitioners does not change the status of the petitioners from that of a tenant. Hence there is no merit in the plea urged before this Court and the learned Trial Court and the Appellate Court rightly held that the relationship of the landlord tenant stood proved.

5. The issues for consideration were whether the tenanted premises had been sub-let, assigned or parted with in whole or in part and whether the same was done without obtaining the consent in writing of the respondents. The petitioner No.2 in his affidavit stated that they are running the business under the name and style of petitioner No.3 'She Zone', however in the cross-examination petitioner No.2 specifically denied existence of any firm by the name of 'She Zone'. First he stated that one Rakesh Mehta whose parent, age, address or mobile number he did not know was appointed as Manager, however later he stated that Rakesh Mehta was not appointed as manager of the firm and both of them were friends. Petitioner No.2 thereafter admitted documents Ex.PW-2/1 which showed that Seema Mehta was running and controlling the business of 'She Zone' as proprietor. Ex.PW-2/1 a certified copy of the account opening form of ING Vysya

Bank, shows name of Seema Mehta as proprietor of 'She Zone' and Rajesh Mehta as her husband. Even in the certificate issued by Ajay & Ajay Co., Chartered Accountant, Ms. Seema Mehta is shown as proprietor and that 'She Zone' was carrying on business at 18/51, East Patel Nagar, New Delhi opposite Gyan Restaurant. Thus, from the evidence on record it was very clear that one Ms. Seema Mehta was running 'She Zone Boutique' as a proprietor and the petitioner No.1&2 failed to show any relationship with petitioner No.3 or that the petitioner No.1&2 had any control over the petitioner No.3. No consent of the respondents in writing was shown to sub-let the premises. Hence, the eviction order was passed and rightly upheld by the Rent Control Tribunal.

6. In view of the evidence led during trial which shows that petitioner No.3 is a proprietorship firm run by one Ms. Seema Mehta as its sole proprietor and petitioner No.1&2 had no control on petitioner No.3, I find no infirmity in the impugned judgment warranting interference. Consequently, petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

FEBRUARY 12, 2015
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