

\$

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CM(M) 186/2015

%

Decided on: 5th March, 2015

BHAGWAN SINGH VERMA

..... Petitioner

Through: Mr. Gurmit Singh Hans, Advocate.

versus

RAJENDER SINGH & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J (ORAL)

CM NO. 4122/2015 (Exemption)

Allowed, subject to all just exceptions.

CM(M) 186/2015 and CM No.4121/2015 (Stay)

1. The Petitioner is aggrieved by the order dated 19th November, 2014 whereby benefit under Section 14 (2) of the Delhi Rent Control Act, 1958 (in short 'the DRC Act') was not given to the Petitioner and the eviction petition of the Respondent under Section 14 (1) (a) of the DRC Act was allowed and the order dated 16th January, 2015 passed by the Rent Control Tribunal dismissing the appeal of the Petitioner.
2. In the eviction petition, the Respondents pleaded that they have let out a shop measuring approximately 20x10 ft. being private Shop No. 3 situated on the ground floor of Property WZ-2, Tatarpur, New Delhi-110027. The Petitioner was running a jewellery shop from the tenanted premises and an eviction petition was filed by the Respondents against the Petitioner for the

same premises under Section 14(1) (a) of the DRC Act and the same was allowed vide the judgment dated 28th July, 2000. However, after the first default, the Petitioner again defaulted in payment of rent @ Rs.644.16 per month from 1st April, 2006 to 30th November, 2006 totaling to Rs.5,153.28 and from 1st December, 2006 to 29th February, 2008 @ 708/- per month totaling to Rs.10,628.70. The Respondents enclosed the last rent receipt for the month of March, 2006. Thus the second default having been committed by the Petitioner, he is not entitled to the benefit of Section 14 (2) of the DRC Act and an eviction order was passed.

3. A notice dated 27th June, 2007 was sent to the Petitioner by late Shri Raghunath Singh, father of the Respondent No.1 and husband of Respondent No.2 the erstwhile owner of the property through the counsel by way of Registered Post on 28th June, 2007 and UPC on 29th June, 2007 which were duly served upon the Petitioner. However, the notice was neither replied nor complied with till the filing of the eviction petition.

4. In the written statement, the Petitioner stated that the Petitioner had remitted the arrears @ Rs.644.16 per month w.e.f. 1st April, 2006 to 31st May, 2007 totaling to Rs.9,260/-. The Petitioner has been tendering the rent every month w.e.f. 1st April, 2006 onwards however, late Shri Raghunath Singh refused to receive the same. Thus the Petitioner had no option but to remit the rent by two money orders dated 27th June, 2007 but late Shri Raghunath Singh refused to accept the same. It is further stated that the Petitioner never received the legal demand notice dated 27th June, 2007. No notice was sent before the filing of the petition.

5. During the course of evidence, the Respondent No.1 examined himself as PW-1 and deposed as to the contents of the eviction petition. He also

proved the judgment in the earlier petition under Section 14 (1) (a) dated 28th July, 2000 and the counterfoil of the rent receipt of March, 2006. He also proved the legal demand notice dated 27th June, 2007 as Ex.PW-1/4, postal receipt regarding the same as Ex.PW-1/5 and UPC receipt as Ex.PW-1/6. He also exhibited the death certificate of his father late Shri Raghunath Singh. The Petitioner examined himself as DW-1 and proved the receipts of the money orders received by the Petitioner Ex.DX (Colly).

6. The learned ARC as well as the learned Rent Controller came to the conclusion that in case the rent was not accepted by the Respondent's father, the Petitioner ought to have deposited the same under Section 27 of the DRC Act. The Respondent PW-1 stated that his father refused to accept the money orders as the same was not full rent. The Respondents proved the service of the legal demand notice and first default having proved the Petitioner was not entitled to the benefit under Section 14 (2) of the DRC Act now.

7. The only issue raised before this Court in this regard is that in cross-examination PW-1 stated that he could not say that any legal demand notice was sent. The cross-examination of PW-1 cannot be read in isolation. The same has to be read as to what was stated in examination-in-chief as well. In the evidence by way of affidavit the Respondent No. 1 clearly stated that his father late Shri Raghunath Singh had sent legal demand notice dated 27th June, 2007 on 28th June, 2007 through his advocate Shri Mahavir Prasad vide Registered Post as well as UPC and he exhibited the copies of the legal notice, postal receipt of Registered AD and UPC. Thus the Respondent proved the service of demand notice through documentary evidence as well. The demand notice having been proved and the Petitioner admittedly not

having deposited the rent under Section 27 of the DRC Act on refusal by the father of the Respondent No.1 the learned ARC and Rent Controller rightly did not grant the benefit under Section 14 (2) DRC Act to the Petitioner.

8. In Sarla Goel vs. Kishan Chand, 2009 (7) SCC 658 and Atma Ram vs. Shakuntala Rani, AIR 2005 SC 3753. In Sarla Goel (supra) the Supreme Court categorically held that since the protection to the tenant for depositing of the rent under Section 27 of the DRC Act has been provided the said procedure has to be strictly followed by the tenant and steps have to be taken in the event of refusal of the landlord to receive the rent or to grant receipt to the payment.

9. This was a case of second default and the Petitioner had not deposited rent under Section 27 of the DRC Act. Consequently, there is no error in the impugned judgments, I find no merit in the petition.

10. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

MARCH 05, 2015
‘vn’