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HIGH COURT OF DELHI AT NEW DELHI

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RC. REV. 138/2015

Pronounced On: 14th October, 2015

ANIL KUMAR GUPTA

..... Petitioner

Through: Mr. Niraj K. Singh, Advocate with
Mr. Mustafa Zaidi, Advocate

versus

DEEPIKA VERMA

..... Respondent

Through: Mr. V.K Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J.

1. The present revision petition has been filed by the petitioner/revisionist against the order dated 06.02.2015 passed by the learned Additional Rent Controller (ARC), East District, Karkardooma Court, Delhi rejecting the review petition filed by the revisionist and upholding the order dated 13.08.2014 by virtue of which the Ld. ARC dismissed the petitioner's application for leave to defend and passed the order of eviction.
2. Briefly stated the facts of the case are that the respondent is the landlady of the premises bearing no. 603/2 B-1, Bazar Gali,

Vishwas Nagar, Shahdara, Delhi-110032. A shop situated at the ground floor of the aforesaid premise was let out to the petitioner on 16.11.1988 at the rent of Rs. 800/- p.m. (hereinafter referred to as the tenanted premise) to be increased at 5% every year. The respondent in August, 2012 filed an eviction petition stating therein that the premises are required for the settlement of her daughter in law as her son who is engaged in the family business and is unable to meet the requirements of his family which includes two minor children.

3. The Ld. ARC vide order dated 13.08.2014 dismissed the petitioners application seeking leave to defend and passed an order of eviction in favor of the respondent herein. Aggrieved the petitioner herein sought a review and the same was dismissed vide order dated 06.02.2015. Leading to the present revision petition.
4. I have heard the learned counsel for the petitioner. The case of the petitioner/revisionist is primarily two folds. Firstly it has been contented that the daughter in law will not constitute as dependent on the respondent according to the scheme of S.14 (1) (e) of the Delhi Rent Control Act. It has been argued that even though the

word ‘dependent’ has not been defined in the Act, in common parlance, it means and connotes a person who is dependent either on account of being minor or on account of having been incapacitated. Admittedly, the daughter in law does not qualify either of the criteria so as to make her dependent on the respondent for the purpose of the eviction proceedings under S. 14(1) (e) of the Act. In furtherance of the aforesaid argument the petitioner/ revisionist has placed reliance on the judgment rendered by the Honorable Sikkim High Court in *Paul Sangay vs. Mahabir Prasad Agarwalla*; AIR 1980 Sikkim 13 wherein it has been observed that a requirement for occupation of any person other than landlord himself can be a ground of ejectment there under only if such person, whether a wife or a son or a daughter is “dependent” on the landlord. It was further observed that mere desire on the part of the landlord is not enough but the landlord must also prove a genuine bonafide requirement.

5. Secondly the learned counsel for the petitioner has questioned the title of the respondent/landlady with respect to the tenanted premise on account of discrepancies in the documents relied upon

by the respondent in this regard. It is alleged that the GPA dated 03.01.1996 executed in favor of one Ms. Vidyawati was in respect of a premise ad-measuring 150 sq yards whereas the sale deed dated 20.02.1996 executed by her in favor of Mr. Sanjeev Kumar Verma which was later purchased by the respondent/ landlady in 2006 ad-measured only 50 square yards. On the basis of the aforesaid it is argued that the property, ad-measuring 150 square yards was not partitioned by meets and bounds and late Vidyawati was appointed attorney for the entire property and therefore, it is suspicious as to how a part of the same being 50 square yards, presently constituting the tenanted premises, came to be sold to Mr Sanjeev Kumar Verma and later to the respondent/landlady, thereby raising doubts on the title of the respondent/ landlady. It is further argued that had the respondent been the landlady the rent with respect to the tenanted premises could not have been received by Mr. Yogender Verma who is the husband of the respondent and in whose favor all the rent cheques were drawn in absence of any authorization from the respondent to receive the said rent for and on her behalf. In addition to the aforesaid the learned counsel for

the revisionist/petitioner has also pointed out that blank cheques were tendered by the revisionist/tenant to the husband of the respondent during the tenancy period.

6. It has been contented by the learned counsel for the petitioner/revisionist that the Ld. ARC fell into an error by holding that the revisionist/ tenant has failed to make out any triable issue. It has been further contented that a “triable issue” denotes an issue which confers right on the person raising such issue to defend the proceedings and which cannot be adjudicated in a summary manner rather, its adjudication is essential to determine the respective rights of the parties. It is averred by the learned counsel for the petitioner that as it flows from the aforementioned submissions the revisionist/ tenant has been able to prima facie raise triable issues which cannot be dealt with in a summary manner and a decision on which is germane and cogent for the final adjudication of the matter.
7. I have heard the learned counsels for both the parties and perused the impugned order.

8. The short point for consideration in the present matter is whether or not a daughter in law would qualify to be a dependent on the mother in law under the terms of S.14 (1) (e) of the Act.
9. Before proceeding further, it would be pertinent here to reproduce S.14(1)(e)

“14. Protection of tenant against eviction.- (1)
Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by and court or Controller in favour of the landlord against a tenant: Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:-

....

*(e) That the premises let for residential purpose are required bona fide by the landlord for occupation as a residence for himself or **for any member of his family dependent on him**, if he is the owner thereof , or for any person for whose benefit the premises are held and the landlord or such person has no other reasonably suitable residential accommodation.”*

10. An analysis of the aforementioned reveals that in order to secure possession of the tenanted premises the landlord must fulfill the aforementioned pre-requisites being a bonafide requirement, absence of any other suitable premises and that the premises are

categorically required for the possession and occupation of the landlord himself or “for any member of his family dependent on him”.

11. In order to lay to rest, the ambiguity attached with the word “dependent” it is critical to appreciate the intent of the legislature behind the design of S. 14 of the Act. From the perusal of the Act itself it is evident that the aforesaid was not intended to be against the requirement of a landlord or to act in any way as an anti-landlord provision but was designed to protect the interest of the tenant that is to provide him with a safety net in case an eviction was sought either out of sheer mischief or in hope of higher monetary gains. It is trite law that the rent control law does not envisage or confer a better right than the landlord, on the tenant with respect to the bona fide enjoyment of the tenanted premises. The same is reflected from the judgment of this court in *Punjab State Co-operative Supply And Marketing Federation Limited vs. Amit Goel and Another*; 204 (2013) DLT 63 wherein it was held that “the law is settled that unless shown to the contrary, the

presumption would be in favor of the landlord's need" and a catena of other judgments.

12. Customarily or in common parlance a dependent would be defined as any person who is reliant on another either for financial or physical support for sustenance of life. It is pertinent to note that the word dependent or as to what constitutes a family has nowhere been defined in the Delhi Rent Control Act. Rather, the legislators consciously and deliberately have used the words "any member of family dependent on the landlord" instead of defining a clear degree of relations so as to construe a wider meaning to the aforesaid words as man is a social creature and part of a complex societal system involving myriad of relations from which he cannot be isolated. It is significant to understand that the dependency is not restricted to financial or physical but will also include emotional reliance on another person. Reliance in this regard is placed on the findings of this court in *M/S. Jhalani Tools (India) Pvt. Ltd. vs B.K. Soni*; AIR 1994 Delhi 167, wherein the court observed that the social set up of our society is such where a married daughter continues to enjoy a place of pride in her

maternal home and therefore while considering the requirement of the landlord her married daughter and her expected visits cannot be lost sight of. Similarly in *Sain Dass v. Madan Lal*; 1972 Ren CJ (SN) 8 (Delhi), this Court has acknowledged that the word "himself" has to be construed to mean "himself" as cohabiting with his family members with whom he is normally accustomed to live. Therefore, contrary to the submissions of the learned counsel for the petitioner financial or physical incapacitation cannot be the sole premises for determining dependency on another.

13. The Honorable Supreme Court in *Corporation of the City of Nagpur v. The Nagpur Handloom Cloth Market Co. Ltd.*, AIR (1963) SC 1192 while interpreting the word "Family" observed as under :

"But the expression 'family' has according to the contest in which it occurs, a variable connotation. It does not in the setting of the rules postulate the existence of relationship either of blood or by marriage between the persons residing in the tenement Even a single person may be regarded as a family, and a master and servant would also be so regarded."

14. As it crystallizes from the aforesaid the word dependent cannot be constructed in a narrow and literal manner. The same have to be interpreted judiciously keeping in mind the intent of the legislators. As discussed above the words used under S.14 (1) (e), are “any member of family dependent on him” which would include the daughter in law who in the instant matter is dependent on her mother in law/landlady (respondent herein) and on account of sharing of residence both the daughter in law and the respondent are physically, emotionally and financially inter-dependent.
15. I have perused the judgment relied upon by the revisionist in *Paul Sangay’s* case (*supra*). It was a case wherein the landlord sought eviction on the ground that the premises were required for the settlement of his two sons aged 25 years and 19 years who desired to start a business in the tenanted premises. It was in light of the said facts that the Honorable Sikkim High Court examined the scope of the word “dependent” under the Gangtok Rent Control And Eviction Act, 1956 and by limiting the degree of relations to wife, son or daughter of the landlord, the learned court has attempted to define the same. Reliance on the aforesaid judgment

seems to be misplaced as not only it deals with an entirely different act but also the facts of the instant case are distinguishable and it is settled principle that no blanket approach can be followed and the court must look at each case in the light of its own peculiar circumstances. It is trite law that a judgment rendered by any High Court has binding precedential value only on the subordinate courts and tribunals within its own territorial jurisdiction and beyond the same it only has a persuasive demeanor. Reliance in this regard is placed on the judgment of this court in *M/S. Chinteshwar Steel Pvt.Ltd. vs Union Of India & Ors. [WP (C) No. 4553/2012 decided on 8.10.2012]*.

16. A constitutional bench of the Honourable Supreme Court in *Hindustan Petroleum Corporation Ltd. vs Dilbahar Singh; 2014 (9) SCALE 657* while explain the revisionary powers of the high court under various rent control acts has held as follows:

“45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in

revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

17. In the light of the aforesaid, I am of the considered opinion that the same is a question of fact and has been decided against the petitioner/tenant concurrently by the Ld. ARC both in the eviction order dated 13.08.2014 and the order dismissing the review petition

dated 06.02.2015. I have perused the impugned order and find no infirmity or illegality in the analysis of the evidence as done by the Ld. ARC so as to warrant any interference by this court. As it crystallizes from the aforesaid judgment of the Honorable Apex Court in the *Hindustan Petroleum's* case (*supra*), the court when exercising its revisionary powers does not sit in appellate jurisdiction and it shall not re-assess or re-appreciate the evidence so as to arrive at a finding contrary to that rendered by the courts below when prima facie no illegality or impropriety is reflected from the impugned order.

18. Even otherwise on merits in the light of the judgment rendered by this court in *Ramesh Chand vs. Uganti Devi*; 2009 (157) DLT 450, when the petitioner/tenant has been paying rent to the landlady then he is not allowed to raise plea of imperfectness of title of the respondent/landlady. To say that the rent was being received by the husband of respondent/landlady and therefore the title does not vest in the respondent/landlady or to raise a plea that merely because the property was not divided in meets and bounds and there was no provision in the GPA to allow the future transfers of the property in

a piece meal manner casts a cloud on the title of the property is a farfetched story to say the least and is devoid of any substance.

19. The Court has rightly observed that the tenant cannot dictate his terms to the landlady as to how she is to use her accommodation unless and until there is grossly unjustified demand made by the landlady. The landlady has been able to make out a more than prima facie case to prove her bonafide requirement.
20. I have considered carefully all the aspects of the matter and fully agree with the conclusions draw by the learned ARC. The learned Additional Rent Controller has dissected the evidence and has examined the contentions analytically. Even otherwise I have undertaken the exercise to examine the evidence on the record myself and I find no reason to take a view contrary to the one taken by the learned Additional Rent Controller. I do not find that there is any jurisdictional error, infirmity or impropriety in rejecting the leave to defend of the petitioner by the learned ARC and therefore, this Court is not required to interfere with the said order.

21. In view of the aforesaid facts and discussion, I feel that the present petition is totally misconceived and no ground has been made out to interfere with the same and accordingly, the same is dismissed.
22. Pending applications also stand disposed of.

V.K. SHALI, J.

OCTOBER 14, 2015
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