

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

+ **RC.REV.219/2013 & CMs. 9676/2013, 13681/2013 & 5049/2015**

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Reserved on: 18th March, 2015
Decided on: 27th March, 2015

MAHABIR PRASAD AGGARWAL Petitioner
Through Mr. Mohit Gupta with Mr. Ankit Jain,
Adv.
versus

GOPAL KRISHAN PURI Respondent
Through Mr. S.C. Singhal, Adv.

Coram:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. Aggrieved by the order dated 22nd April, 2013 whereby the leave to defend application filed by the petitioner in an eviction petition filed by the respondent under Section 14(1)(e) of the Delhi Rent Control Act, 1958 (in short the DRC Act) was dismissed, the petitioner prefers the present petition.

2. In the eviction petition, the respondent pleaded that the tenanted premises was a shop in property B-7, Ground Floor, Tagore Market which was let out to the petitioner by the late father of respondent on 1st April, 1992 at a rent of ₹500/- per month besides electricity charges. The respondent stated that he inherited the suit property from his father who executed a Will in his favour and thus he became the absolute owner of the property. The respondent is residing in the first floor of the said premises along with his

family members and his two sons. The respondent retired from NCERT on 30th March, 2010 and both his sons are working in private sector but due to recession both of them lost their respective jobs. Due to the uncertainty in the private sector jobs, both his sons want to start their business along with the respondent. The respondent plans to start a restaurant in the premises and as there is no other restaurant in the market thus there are chances of growth. The respondent has received money from the provident fund which can be utilized to start business with his sons.

3. In the leave to defend application the petitioner challenged the validity of the Will dated 20th December, 1978 and that the alleged Will was never acted inter-se the legal heirs of the deceased landlord and that the petition was bad for non-joinder of other legal heirs. It was stated that the bonafide requirement was only self-created and sham. The tenanted premises was surrounded by number of shops of furniture and combustible material like paints, etc., and thus prone to fire. The sons of the respondent are lucratively employed, have been living separately and thus are not dependent on the respondent.

4. The learned ARC held that the petitioner has admitted that he was inducted as a tenant by the father of the respondent and even if the Will dated 20th December, 1978 was inadmissible and relinquishment deed dated 24th September, 2009 was not signed by all the LRs, still admittedly the respondent was the co-owner of the property and thus could individually file the eviction petition against the petitioner. As regards bonafide requirement the learned ARC held that merely because the sons of the respondent were presently employed somewhere does not render the requirement of the

respondent malafide as it is not expected that the sons of the petitioner should keep sitting idle at home, waiting for the outcome of the eviction petition of which there is no certainty that an order would be passed in their favour. The respondent and his sons have every right to start their restaurant business which was their dream project and the said requirement cannot be said to be malafide, especially when it is not denied that the respondent retired in the year 2010 from NCERT and thus wishes to settle himself.

5. Two pleas have been taken by the learned counsel for the petitioner before this Court; firstly on the basis of subsequent events it is stated that the respondent filed another eviction petition against another tenant in the suit property on the ground floor wherein leave to defend was granted, secondly in the cross-examination of the respondent held on 4th June, 2014 the respondent stated that his elder son was employed and goes to some office at Nehru place.

6. Though in a revision petition this Court is required to confine itself to the material placed before the learned ARC, however subsequent events which have the effect of demolishing the cause of action are required to be considered. In the cross-examination of respondent in the other eviction petition the respondent deposed that his elder son Rajeev Puri was MBA and had job in some company for doing the project but has to leave the same as he could not complete the assignment. He volunteered that Rajeev Puri remained out of work for some time. The petitioner has also relied upon registration form relating to the daughter of younger son Dipesh Puri filed in the school wherein he claimed that he was doing a business in the name of Media Flakes. The subsequent events also as pointed out by learned counsel

for the petitioner do not raise triable issues. The respondent had stated in the other eviction petition that his sons were working in private sector, however due to recession and uncertainty in the private sector jobs both the sons want to start their own business and there were great chances of growth in the business of restaurant. As regards the registration form regarding admission of daughter of the younger son, even if the younger son Dipesh Puri by passage of time has opened another business, the same would not nullify the requirement of the respondent to settle himself and his other son in restaurant business. I find no illegality or perversity in the impugned order.

7. Consequently, the petition and applications are dismissed.

(MUKTA GUPTA)
JUDGE

MARCH 27, 2015
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