

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

+ **RC.REV. 66/2014 & CM 2203/2014 (delay)**

% **Reserved on: 15th January, 2015**
Decided on: 22nd January, 2015

SURJEET SINGH BHATIA Petitioner
Through **Mr. G.K. Tanwar, Adv.**

versus

SITARAM Respondent
Through **Ms. Sindhu Sakharwal, Adv.**

Coram:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. The petitioner is aggrieved by the order dated 4th December, 2010 whereby his petition for eviction of the respondent on the ground of bona-fide requirement under Section 14(1)(e) of the Delhi Rent Control Act, 1958 (in short the DRC Act) was dismissed.

2. In the eviction petition it was pleaded that the respondent was a tenant in premises No.210, Ground Floor, Pocket C-9, Sector-7, Rohini, New Delhi-85 at a monthly rent of ₹3000/- per month excluding electricity and water charges. The premises was let out for residential purposes and the same was now required bona-fidely by the petitioner for residential purposes of his children who were dependent upon him and were of marriageable age. The petitioner was having one drawing room, one bed room which was quite

insufficient for accommodating the family of the petitioner and at the time of creation of tenancy the children of the petitioner were unmarried and thus he did not require the accommodation at that time. It is stated that the petitioner requires one bed room for himself and his wife, one bed room for his son, one bed room for his daughter and one room for the guest. It is further stated that when the premises was let out, the petitioner was living at his father-in-law's house along with his wife and at present he was living at Janakpuri which premises was not enough to accommodate Petitioner's family and his major children.

3. On a notice being issued respondent's leave to defend application was filed which was allowed and thus written statement was filed. In the written statement, a preliminary objection was raised that the petitioner is the owner of three properties and thus the petition was liable to be dismissed on misrepresentation of facts. It was further stated that the petitioner was permanent resident of B-51, Ground Floor, Patel Nagar, New Delhi and having a small nuclear family. The tenanted premises was not required as the daughter would reside in her matrimonial house after her marriage. The house of the father-in-law of the petitioner fell to the share of his wife and she was exclusive owner of the premises in which the petitioner and his family were presently residing. The petitioner is also the owner of property bearing No. C-1/68, first floor, Janakpuri, New Dlehi which comprises of two rooms, kitchen, WC and bathroom and the same was lying vacant.

4. In rejoinder affidavit the petitioner admitted that B-51, Ground floor, Patel Nagar is owned by the petitioner's father-in-law and premises C-1/68, first floor, Janakpuri was owned by the petitioner's deceased father.

However, it is stated that the house at Janakpuri was not a big house. It consisted of one drawing room, one bed room, kitchen, bathroom, store, lobby and open area.

5. The parties proved their documents. The material part of the examination of the petitioner is that in cross-examination he admitted that since marriage till the execution of rent agreement he was residing at B-51, Patel Nagar, New Delhi, however he denied the suggestion that the property No.B-51 had been partitioned and half share of the property fell to the share of his wife. The eviction petition was filed in the year 2008 and the petitioner admitted that he shifted from B-51, Patel Nagar in October 2005 to C-1/68, first floor, Janakpuri. In cross-examination the petitioner further admitted that the first floor of the suit premises was lying vacant.

6. The jural relationship having been admitted the only issue was bona-fide requirement and availability of alternate accommodation. The tenanted premises No. 210, Ground Floor, Pocket C-9, Sector-7, Rohini, New Delhi-85 comprises of two rooms, kitchen, WC, bathroom and open area. The respondent in his evidence has stated that the first floor of the said premises consists of the same accommodation i.e. two rooms, kitchen, WC and bathroom and was lying vacant which fact has been admitted by the petitioner in his cross-examination. Even assuming that the Patel Nagar property had not fallen to the share of the petitioner's wife, however it is admitted by the petitioner that the first floor of the suit premises which is of the same size and has the same number of rooms was in vacant possession of the petitioner which material fact was concealed by the petitioner. Hence the learned ARC dismissed the petition. In view of this concealment of fact and

availability of an alternate accommodation the petitioner is not entitled to any relief and the impugned judgment warrants no interference.

7. Petition and application are accordingly dismissed.

(MUKTA GUPTA)
JUDGE

JANUARY 22, 2015
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