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HIGH COURT OF DELHI AT NEW DELHI

Decided on: 24th November, 2015

+ RC.REV. 264/2014 & CM APPL.12884/2014

INDER KUMAR LAMBA Petitioner

Through: Mr. Ajay Malhotra, Advocate with
Ms. Hema Arora, Advocate

versus

VEENA SETHI & ORS Respondents

Through: Mr. Ramesh Kumar, Advocate with
Ms. Anjali Chopra, Advocate

+ RC.REV. 265/2014 & CM APPL.12886/2014 (stay)

INDER KUMAR LAMBA Petitioner

Through: Mr. Ajay Malhotra, Advocate with
Ms. Hema Arora, Advocate

versus

ABHISHEK PAHWA & ORS Respondents

Through: Mr. P.K. Rawal, Advocate with
Mr. Tarun Aggarwal, Advocate.

+ RC.REV. 266/2014 & CM APPL.12894/2014 (stay)

INDER KUMAR LAMBA Petitioner

Through: Mr. Ajay Malhotra, Advocate with
Ms. Hema Arora, Advocate

versus

ANIL KUMAR CHHABRA

..... Respondent

Through: Mr. Ramesh Kumar, Advocate with
Ms. Anjali Chopra, Advocate

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. These are three revision petitions filed by the common petitioner-landlord against the three tenants in respect of three different shops bearing Nos. 1,2 and 3 part of the premises No.3-10, Model Town, Delhi.
2. I have heard the learned counsel for the petitioner. I have also gone through the record.
3. The petitioner-landlord in the instant case had sought an eviction of three different tenants in respect of three shops which were under the tenancies of three tenants by stating that he needs the shops for the purpose of settling his three adults sons, who were married and having children. It has been stated by the eldest son is 49 years of age having two-three children and similar is the case with the other two sons. It has been alleged that the three sons of the petitioner are dependent on him both financially as well as for the purpose of

accommodation. Presently, it has been stated that the petitioner who is suffering from 50% disability is in the business of manufacturing auto parts in which three sons are helping him. The petitioner has alleged that he has no other alternative suitable accommodation available to him where he could settle his three sons.

4. The respondents-tenants individually filed their three separate leave to defend applications and in all the three applications, the tenants had taken the plea that the petitioner has been guilty of concealment of vital information from the Court. He had an alternative suitable accommodation available to him in the shape of a plot in Bawana which is an industrial area which has not been disclosed wherefrom the sons of the petitioner could run business.
5. The petitioner in his reply to the leave to defend application has stated that so far as the finance is concerned, the wives of the sons of the petitioner or the daughter-in-law of the petitioner are doing tuition business. So far as the industrial plot in Bawana is concerned, that cannot be considered to be an alternative suitable

accommodation available to him as it is yet to be built and in any case this plot of land is a leasehold plot of land wherefrom business cannot be run by the sons of the petitioner.

6. The learned Additional Rent Controller (ARC) after hearing the arguments has granted leave to defend to all the respondents-tenants essentially on the ground that the petitioner has been found to be guilty of concealment of vital information from the court with regard to the industrial plot in Bawana.
7. I have heard the learned counsel for the petitioner as well as gone through the impugned order.
8. I find myself in agreement with the learned ARC with regard to appreciation of facts that a person who seeks eviction of a tenant must come to the Court with clean hands and give the complete information. The accommodation which is available with him must be disclosed and thereafter it may also be disclosed by him as to whether that accommodation which is available with him is alternatively suitable or not.

9. In the instant case, the petitioner does not disclose the availability of an alternative plot and it is only in reply to the leave to defend application that he admits that he has a plot available to him but says that it is not suitable.
10. The question of suitability is to be objectively assessed by the Court though the decision has to be taken by the party himself in the first instance but when the information itself is withheld by the petitioner of its availability, it casts a doubt regarding his *bona fides* and the tenant is entitled to leave to defend. This precisely what has been done by the learned ARC.
11. Moreover, the petitioner has stated that he is suffering from 50% disability while his three sons are adults, married and are stated to be financially dependent on the father. This fact of the eldest son being 49 years of age having three children and still being financially dependent on the father could have been believed by the Court in case it would have been disclosed to the Court as to how much money he was getting by assisting his father. In rejoinder to the leave to defend application this aspect was contested. The

petitioner in rejoinder states that the wives of the sons of the petitioner are doing tuition business to supplement the income. This also becomes a kind of afterthought which also adds to the doubt with regard to the *bona fides*. Therefore, essentially in a case of this nature where rival averments are made by the parties on Affidavit, the only method of determining the truthfulness of the landlord would be to permit the tenant to produce evidence and similarly the landlord would also be able to do so. It is because of these reasons that the leave to defend has been granted to the respondents-tenants.

12. I have gone through the impugned order. I do not find that there is any illegality or impropriety or jurisdictional error in arriving at the finding by the learned ARC prima facie to grant leave to defend. For these reasons, I feel that the present petitions are totally misconceived challenging the order of grant of leave.
13. The learned counsel for the petitioner has given a list along with copies of 28 judgments without specifying as to on what points he wants to refer the judgments and the principle of law, therefore, I

do not find it necessary to deal with the same. Therefore, these petitions are totally frivolous and are accordingly dismissed.

14. Pending applications also stand disposed of.

V.K. SHALI, J.

NOVEMBER 24, 2015

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