

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

+ RC.REV. 171/2015

Decided on: 15th April, 2015

K V R MURTHY Petitioner
Through Mr. Praveen Chauhan with Mr. Yash
Prakash, Advs.
versus

DHARAMWATI DEVI Respondent

Through None.

Coram:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CM No.6729/2015 (Exemption)

Allowed, subject to all just exceptions.

RC.REV.171/2015 & CM 6728/2015 (stay)

1. Aggrieved by the order dated 22nd November, 2014 whereby leave to defend was declined to the petitioner K.V.R. Murthy who was a tenant of Smt. Dharamwati Devi, landlord in an eviction petition under Section 14(1)(e) DRC Act, the petitioner prefers the present petition.
2. In the eviction petition Smt. Dharamwati Devi stated that she was landlord and owner of the tenanted premises which was a shop in the suit property No.D-14, Mohan Singh Market, Sector-6, R.K. Puram, New Delhi. The shop was initially owned by her father Shri Rameshwar Parsad. On the

death of Shri Rameshwar Prasad, the same devolved on his wife late Smt. Ramwati who continued to carry on the business with the help of her son-in-law late Shri Ram Bharose Lal Gupta. Smt. Dharamwati was the sole surviving legal heir of Ramwati and hence owner of the premises. A civil suit bearing No.318/2001 was filed by K.V.R. Murthy against Ramwati and husband of Dharamwati claiming himself to be a tenant since 1995 on a monthly rent of Rs.2000/- which was disposed off in view of statement Ramwati and Ram Bharose without prejudice to their rights and contentions that they will not dispossess K.V.R. Murthy except by due process of law. Smt. Ramwati and Ram Bharose had also filed a civil suit against K.V.R. Murthy seeking mandatory and permanent injunction on 11th May, 2001 wherein Dharamwati was substituted as legal heir of Ramwati. However, the said proceedings were finally withdrawn after Dharamwati accepted that K.V.R. Murthy was a tenant on a monthly rent of Rs.2000/-.

3. According to Dharamwati she needed the premises as she had no source of income. She has two daughters namely Kusum and Suman. Her elder daughter Kusum and her husband with two children were staying with Dharamwati at Laxmi Nagar in her residential property. The husband of Kusum was unemployed and having no source of income and hence she needed the tenanted premises to rehabilitate her elder daughter Kusum and her son-in-law. It is stated that rehabilitation of Kusum and her husband are not only necessary for providing source of sustenance of their family but also to generate resources for the future of two grandchildren, their studies and marriage of granddaughter. She further stated that she has no other reasonable suitable accommodation to rehabilitate Kusum and her son-in-

law. Property No.87/88, J&K Block, Laxmi Nagar, New Delhi where Dharamwati was residing was a residential premises.

4. In the leave to defend application, K.V.R.Murthy though challenged the ownership of Dharamwati, stating that open platform measuring 8'X 10' was allotted to Rameshwar Parsad. He constructed a temporary shed. A sum of Rs.2000/- has been paid as mesne profits to Dharamwati by depositing the same in her account. Dharamwati had sufficient income to maintain herself and her son-in-law was doing a private job. He was running a tea stall on Barakhamba Road and working in a private company.

5. Learned ARC vide the impugned order held that K.V.R. Murthy has not disputed the fact that married daughter of Dharamwati with her family was living with Dharamwati nor the composition of family was denied. The bona fide requirement is refuted on the ground that Dharamwati is earning handsomely and even her son-in-law is working in a private job. The said two averments do not raise any triable issue.

6. Before this Court, learned counsel for the K.V.R. Murthy only urges that in the eviction petition it is nowhere stated that the son in law of Dharamwati was dependent on him. In the eviction petition it is stated that Narender Kumar Gupta the son-in-law of Dharamwati is a man of ordinary means and having no property owned and possessed by him and thus Dharamwati was burdened with the responsibility of housing her son-in-law and her daughter and their children in her residential premises and to ensure their rehabilitation. The shop in question was required to provide sustenance for Dharamwati as well as her daughter and son-in-law. Thus, even if the words "dependent on the landlord" are not used the meaning conveyed by

the words as stated above are clear and Dharamwati has stated that her daughter and son-in-law were dependent on her not only for residential accommodation but also for financial sustenance.

7. Consequently, I find no merit in the petition.

8. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

APRIL 15, 2015
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