

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

+ **RC.REV. 42/2015 & CM 1219/2015 (stay)**

% Decided on: 11th March, 2015

GOPAL BHAGNANI

..... Petitioner

Through

Mr. Parvez Dabas, Mr. Milan Laskar,
Mr. S.A. Saud, Advs.

versus

RAMESH CHAND

..... Respondent

Through

Coram:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. Aggrieved by the order dated 21st March, 2014 whereby leave to defend was granted to the respondent in an eviction petition filed by the petitioner under Section 14(1)(e) of the DRC Act, the petitioner prefers the present petition.

2. The learned Trial Court granted leave to defend on the ground that the petitioner has failed to disclose as to how and under what circumstances he represented himself as attorney of Vasudev Bhagnani & Sons, HUF in eviction petition bearing No. E-29/1995 titled as “Shri Vasudev Bhagnani & Sons, HUF Vs. M/s. D.C. Ramesh Corporation” despite the fact he claims to have become owner of the property in question three years prior to the filing of the said eviction petition. Further the respondent had sublet the premises

and had addressed a letter to the erstwhile landlord Shri Om Prakash Aggarwal on 1st September, 1977 and if the property in question was rightly sublet by the then tenant the eviction petition was bad on account of non-joinder of necessary parties i.e. the sub-tenant and thus triable issues going to the root of the matter have been raised.

3. The petitioner filed an eviction petition claiming that he became owner of the property by virtue of irrevocable general power of attorney dated 31st March, 1992 and claimed that the landlord Vasudev Bhagnani ceased to have any right, title or interest over the said property in question. The petitioner stated that he and his family members were residing in Mumbai and wants to shift to Delhi to earn his livelihood and he has no other property in Delhi. The family of the petitioner comprises of himself, his wife, one son and one daughter. It is further stated in the petition that the respondent has illegally sublet, assigned or parted with the physical possession of the suit property. Further the tenanted premises was more suitable for commercial activities as it is on the ground floor and mezzanine floor of the suit property and the petitioner wanted to start his construction business in Delhi. It is further stated that the petitioner had filed another petition against the respondent as attorney under Section 14(1)(b) of the DRC Act, however as the petitioner could not pursue the same it was dismissed in default. In the written statement filed in the said petition the respondent admitted that he was a tenant in respect of suit property since 1973 which was let out to him by Shri Om Prakash Aggarwal for commercial, residential and storage purposes.

4. In the leave to defend application the respondent pointed out about the other eviction petition and also that the petitioner has now filed eviction petition as owner of the property whereas earlier eviction petition No. E-29/1995 was filed as the attorney of landlord Vasudev Bhagnani & Sons, HUF. The respondent claimed that his possession to the property was hostile. Further the respondent pointed out that Shri Vasudev Bhagnani has business of financing and producing Bollywood movies which is highly well-established in Mumbai and thus there is no requirement of the petitioner, much less any bonafide requirement, to come to Delhi. The respondent also took the plea of subletting which was even stated in the eviction petition.

5. In view of the plea of non-joinder of necessary parties which fact has been admitted by the petitioner in an earlier eviction petition, the petitioner being not the owner of the premises and the bonafide requirement being challenged, I find no infirmity in the impugned order granting leave to defend.

6. Petition and application are accordingly dismissed.

(MUKTA GUPTA)
JUDGE

MARCH 11, 2015
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