

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **RC. REVISION 258/2015 & CM APPL.9440/2015**

Decided on: 24 November, 2015

BALRAM Petitioner

Through: Mr. Hemant Choudhary, Advocate

Versus

NIRMALA DEVI Respondent

Through: Mr. Abhimanyu K. Singla, Advocate
with Respondent in person.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is a revision petition filed by the petitioner against the judgment dated 16.01.2015 by virtue of which the leave to defend application of the petitioner has been dismissed and order of eviction has been passed.
2. Briefly stated that facts of the case are that the respondent-landlady is the owner of property No.16/605-E, Tank Road, Bapa Nagar, Karol Bagh, New Delhi. It is stated in the eviction petition that in the year 1996, the husband of the respondent-landlady deserted her

when her children one son and a daughter were young. After desertion, the respondent-landlady started running a *Tandoor* on the street where she used to bake *chapatti* for different persons and earn her livelihood. It is alleged by her that her Tandoor was kept on a public road she was facing immense difficulty from the municipal corporation as they would often challan her. She has accordingly been constrained to file an eviction petition for retrieving possession of a shop measuring 8 ft. x 5 ft. on the ground of bona fide requirement from the present petitioner for the purpose of running a restaurant business in a proper space.

3. The petitioner-tenant in the instant case filed his leave to defend application and raised an objection that the eviction petition was not maintainable because there was no relationship of landlord and tenant between the parties and that the respondent-landlady can run the business of Tandoor baking chapatti or selling food from her residence and the premises in question was in a dilapidated condition. The real intention of the respondent-landlady was said to be suspect.

4. The learned Additional Rent Controller (ARC) heard the arguments and passed an order of eviction after rejecting the leave to defend application. It was observed by the learned ARC that the relationship is not disputed nor the question of premises being retrieved by the respondent-landlady for the *bona fide* purpose of running a restaurant. The respondent was also having a *Tandoor* on *rehri* where she was being invariably challaned.
5. So far as the allegation of sale of property by the respondent is concerned, it was observed that Section 19 of the DRC Act, 1958 is sufficient to protect the interest of the tenant.
6. I have heard the learned counsel for the parties and have perused the record.
7. I feel that the learned counsel for the petitioner has not been able to show any illegality or impropriety or the jurisdictional error in the order of eviction having been passed against the present petitioner. This is on account of the fact that the premises in question is just 40 sq. ft. a small shop which is more particularly shown red in the plan attached to the petition wherefrom the respondent wants to run

a restaurant with the help of her son as she is already in the same line of business by baking chapatti in the *Tandoor*. To that extent her intention to shift to the premises belonging to her cannot be doubted. It has also been stated that there is no other alternative suitable accommodation available to her. Accordingly, she is entitled to retrieve the possession which has been ordered rightly by the learned ARC.

8. So far as the present petitioner is concerned, he has not been able to raise any triable issue nor has been able to show anything which could persuade the court to set aside the order of eviction and grant leave to defend to him.
9. For these reasons, the revision petition is totally misconceived and the same is accordingly dismissed.
10. Pending applications also stand disposed of.

NOVEMBER 24, 2015
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V.K. SHALI, J.