

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

+ **RC. REV. 413/2015 & CM APPL.14455/2015 (stay)**

Decided on: 26th August, 2015

PRABHJEET SINGH Petitioner
Through: Ms. Shilpi Satyapriya Satyam,
Advocate
versus

BHUPINDER SINGH Respondent
Through: Nemo.

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

V.K. SHALI, J. (ORAL)

CM APPL.16997/2015 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM APPL.16996/2015 (for early hearing)

For the reasons stated in the application the same is allowed, the petition is taken up for hearing.

RC. REV. 413/2015 & CM APPL.14455/2015 (stay)

1. The present revision petition has been filed by the petitioner against the order dated 15.11.2014 passed by the learned Additional Rent Controller (ARC), West District, Tis Hazari Court,

Delhi rejecting the leave to defend of the petitioner and passing the order of eviction.

2. I have heard the learned counsel for the petitioner. It has been contended by the learned counsel for the petitioner that the respondent-landlord have an alternative accommodation available with him in the form of five shops and therefore that factor has not been taken into consideration by the learned ARC while considering the *bona fide* requirement of the respondent. It has been urged that the respondent has concealed this information in the Court and therefore, this makes the requirement of the respondent as *mala fide*.
3. I have perused the analysis of the evidence and the submission made by the learned counsel for the petitioner done by the learned ARC. The learned ARC has dealt with the plea of alternative accommodation available to the respondent as under:-

“28. It is claimed by the respondent side that the building in which the suit shop is situated is a plot measuring 160 sqr yards and there are 5 shops in the same. That out of these shops, shop no.4 M/s. Benu Chowmine is in possession of the petitioner which is run by petitioner and his agents. It is further claimed that apart from this, the petitioner is also in possession

of two other stores measuring 10.6 x 6.6 and 10.4 x 6.10 in the back side of the above mentioned building as well as the entire back side portion measuring about 10.9 x 13.08 sqr yards. It is further claimed that all roads are running road with commercial activities. It is further claimed that petitioner has concealed a material fact that petitioner has been allotted a industrial plot in Bawana, Sector-1 Pocket-1, Delhi, and petitioner has already constructed double story building on the said plot. It is further stated that petitioner is already in possession of more than sufficient accommodation. It is further alleged that it is a case of self created scarcity of accommodation.”

4. The aforesaid analysis by the learned ARC clearly shows that the learned ARC has clearly made distinction between the store room and the shop. Thus, two store rooms which are stated to be available to the respondent-landlord are at the back portion. They cannot be equated with the shop which is under the occupation of the petitioner from which the respondent-landlord is expressing his desires to run his shop. Third part of the shop is also at the back in comparison to the shop which is occupied by the petitioner on the front road in which the main commercial activity is carried and therefore there is difference between the service lane and a land where commercial activities are being carried out. The Court has rightly observed that the tenant cannot dictate his terms to the

landlord as to how he is to use his accommodation unless and until there is grossly unjustified demand made by the landlord.

5. I have considered carefully this aspect of the matter and fully agree with the analysis of the evidence done by the learned ARC.
6. No other point has been raised though I have gone through the entire impugned order running into 17 pages where a decree of eviction is passed on the ground of *bona fide* requirement. I do not find that there is any jurisdictional error, infirmity or impropriety in rejecting the leave to defend of the petitioner by the learned ARC and therefore, this Court is not required to interfere with the said order.
7. Moreover, the decree of eviction after rejection of the leave to defend has been passed on 15.11.2014 and the petitioner was granted six months time which has already expired.
8. I have been informed by the learned counsel for the petitioner that after expiry of six months even the possession of the premises in question has been retrieved pursuant to the execution being carried out by the respondent. Therefore, the present petition is only of academic value.

9. In view of the aforesaid facts, I feel that the present petition is totally misconceived and no ground has been made out to interfere with the same and accordingly, the same is dismissed.
10. Pending applications also stand disposed of.

V.K. SHALI, J.

AUGUST 26, 2015

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