

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

+ **RC. Rev. No.415/2015 & C.M. Nos.14641/2015, 14645/2015**

Decided on : 9th September, 2015

MANJIT KAUR & ANR. Petitioner

Through: Mr. Gautam Dutta, Advocate with
Mr. Sanjay Dhawan, Advocate.

Versus

NETRA PAL Respondent

WITH

+ **RC. Rev. No.421/2015 & C.M. Nos.14727/2015, 14728/2015**

Decided on : 9th September, 2015

MANJIT KAUR & ANR. Petitioner

Through: Mr. Gautam Dutta, Advocate with
Mr. Sanjay Dhawan, Advocate

Versus

DR. R.K. AGGARWAL Respondent

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. These are two petitions filed by the petitioners/landlord against the common order dated 13.4.2015 by virtue of which the learned Additional

Rent Controller had granted leave to defend to the respondent/tenant to show that the requirement of the petitioners herein was not *bona fide* in seeking to retrieve the possession of the two shops available with the respondent herein.

2. Briefly stated the facts of the case are that the petitioner, Manjit Kaur, is an old lady of 84 years. It has been admitted by the petitioner that she is owner of another property bearing No.1591, Shastri Nagar, Delhi-110052 and further that one of her daughter, petitioner No.2, Davender Khokhar, is residing at USA for the last more than ten years. It is alleged by her that because of the old age, her daughter, who was otherwise settled in America, has decided to come back to India. It is stated that her daughter has decided to set up a clinic for the poor and needy for practising Complimentary Alternate Medicine in India which is a branch of complimentary allopathic treatment and, therefore, requires the tenanted shops for the said *bona fide* reason.

3. It is absolutely true that while considering the *bona fide* requirement of a person, the court has to objectively look at the accommodation which is available to such a person. In the instant case, it is not claimed by the petitioner that she is in possession of any other

alternative accommodation but the learned Additional Rent Controller has observed that the respondent's requirement is not *bona fide* and therefore, has granted leave to defend to the tenant.

4. The learned ARC has rejected this plea of *bona fide* requirement of the petitioner on the reasoning that the very fact that the petitioner is 84 years of age and is not suffering from any financial hardship, therefore it could not be considered as *bona fide*. Even the daughter has admitted that she is practicing alternative medicine and wants to serve the needy and poor and not for the purpose of earning any money. If a requirement of additional accommodation is not projected with the desire to earn money then it cannot be said that non-grant of such accommodation to the petitioner would cause any hardship to her. The petitioner required the premises not one shop but two for doing charity which is within the domain of mere desire and cannot be said to be 'absolute necessity'. Hence, it can be examined only by giving opportunity to the parties to adduce evidence. Therefore, it would be in the interest of justice in case the leave to defend is granted to the respondent to contest the matter. The leave to contest the eviction petitions has been granted to the respondent on the basis of the aforesaid reasoning.

5. After perusal of the short order passed by the learned ARC, I find that there is no illegality or impropriety in granting permission to the present respondent for the purpose of contesting the eviction petition filed on the ground of *bona fide* requirement.

6. I find the present revision petitions are without any merit and there is no illegality, jurisdictional error or impropriety in granting leave to defend to the respondent. Accordingly, both the revision petitions are dismissed. All pending applications also stand disposed off.

V.K. SHALI, J.

SEPTEMBER 09, 2015
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