

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

+ **RC. REV. 482/2015**

Decided on : 10th September, 2015

ANUPAMA DEWAN & ORS. Petitioner

Through: Mr. Dilip Singh, Advocate, Neha
Tandon

versus

VINNI DUGGAL Respondent

Through: Mr. Rajiv K Garg, Advocate
Mr. Ashish Garg, Advocate

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

V.K. SHALI J. (ORAL)

1. The present revision petition has been filed by the petitioner/revisionist against the order dated 29.06.2015 passed by the Ld. CCJ cum Additional Rent Controller -1, Central District, Tis Hazari Court, Delhi by virtue of which the Ld. ARC dismissed the petitioner's application for leave to defend and passed the order of eviction.

2. Brief facts of the case are that the respondent/landlady is the owner of the property bearing Office Flat no. 172, First Floor, Office Complex, Cycle Market, Phase-I, Jhandewalan Extension, New Delhi-110055 (tenanted premises). The aforesaid premises were let out to the petitioner/tenant herein during the lifetime of the predecessor in interest of the present respondent. In 2014 the respondent/landlady filed an eviction petition against the present petitioner/tenant for securing the occupation and possession of the tenanted premises. It was stated in the eviction petition that the petitioner (respondent herein) is nearly 67 years of age and is a highly qualified and experienced lady with more than 34 years of experience in teaching. It was further submitted therein that presently she is unemployed and apart from a meager pension of Rs. 1504/- per month, has no other source of income or assistance from anywhere for meeting her day to day expenses and unforeseen medical bills and is forced to borrow from relatives and friends. In order to provide for herself the respondent/landlady has desired the possession of the tenanted premise in order to start a coaching centre for the children. In light of the aforesaid an eviction order

was sought with respect to the tenanted premises on account of bonafide requirement of the respondent/landlady u/s 14(1)(e) of the Delhi Rent Control Act (the Act). Consequently, a leave to defend application was filed by the respondent/tenant (petitioner herein). Vide order dated 29.06.2015 the aforesaid leave to defend was rejected and an order of eviction was passed against the respondent/tenant (petitioner herein) with a finding that no triable issue was made out whilst the landlady has been able to establish a bonafide requirement. Aggrieved, the respondent/tenant (petitioner herein) filed the present revision petition.

3. The short point raised by the learned counsel for the revisionist/tenant is with respect to the bonafide requirement of the respondent/landlady.
4. It has been contended by the learned counsel for the petitioner/tenant that the tenanted premises is situated in the cycle market and is not suitable for running a coaching centre. It is further averred that apart from the tenanted premises the respondent/landlady is in possession of the first floor of a residential cum commercial property bearing No. C9, Block-C,

Lajpat Nagar-III, New Delhi which is being used by her for her residence. The said residential premise is built on 1800 sq feet of area and has four rooms making it a more suitable choice for running the coaching centre not only on account of availability of space but also by virtue of location in residential area.

5. The learned counsel for the petitioner/tenant has further averred that it is pertinent to note that the respondent/landlady is nearing 62 years of age and is not keeping well. In light of the aforesaid, in all probability it seems highly unlikely, that someone of her age would travel all the way to the tenanted premise which is at a distance of nearly 10 kms from the place of residence especially when the residence has ample space and offers a most suitable location making it an ideal choice, in the event the landlady genuinely wants to open a coaching centre. The learned counsel for the petitioner, in line with the aforesaid contentions states that the Ld. ARC failed to appreciate that the requirement of the landlady lacks bonafides and the petition has been filed for ulterior motive. Reliance in this regard is placed on the judgment of the Honorable Apex Court in Deena Nath vs Pooran Lal, 2001 5 SCC 705

wherein it was held that the the bonafide requirement of the landlord must be in presenti and must be manifested in actual need which should evidence the court that it is not mere fanciful or whimsical desire.

6. On the other hand it is the case of the respondent/landlady that the residential premise being utilized by her is a notified residential area as per the Master Plan 2021 of Delhi and therefore cannot be used for commercial activity. Further it consists of only three rooms wherein one is used as a prayer room, the other as the master bedroom and the third room as a guest room. Even otherwise the respondent/landlady lives alone in a city like Delhi, where every other day there are reports of heinous crimes being committed against old people who are living alone and in such circumstances if she is to start commercial activity, in case it is lawfully allowed, from her residential premise it could be a threat to her safety. For that reason and considering the fact that the respondent/landlady has no other source of income to sustain herself except for a paltry amount as pension, it is stated that the respondent has a bonafide

requirement of the tenanted premise for her own settlement as she wants to run the coaching classes.

7. I have heard the learned counsel for the parties and perused the impugned order and I am in agreement with the findings rendered by the Ld. ARC. I find no merit in the averment made by the learned counsel for the petitioner that the respondent/landlady cannot run a coaching centre merely on account of her age or because post-retirement she did not desire to do so until now. The argument with respect to the distance of 10 kms between the two premises being the residence of the respondent and the tenanted premise also has no relevance as Delhi is a metro city equipped with all modern amenities especially for aged people and therefore such a trifling distance is insignificant. These contentions hold no water and are baseless and frivolous to say the least.
8. I am in agreement with the view taken by the Ld. ARC with respect to the safety of the respondent/landlady but even if the same is kept aside for a moment, the court cannot allow a commercial activity to be started in a residential premise in complete contravention of the law. I find no weight in the averment of the petitioner/tenant that

the residence of the respondent/landlady is a residential cum commercial premise as the petitioner tenant failed to file the relevant MCD documents or such others so as to substantiate his argument.

9. Ours is a nation, where teachers are respected and revered. The respondent/landlady has contributed greatly towards the society for more than 34 years as a teacher. Today she has no means to support herself except for her negligible pension and desires to start a coaching centre which will not only provide for her but also groom the next generation.
10. As it flows from the aforesaid discussion, the judgment rendered in the case titled Deena Nath (supra) is of no help to the petitioner as the respondent/landlady has been able to make out a bonafide requirement.
11. It is settled law that the High Court does not sit in appeal over the findings of the Ld. ARC. Reliance in this regard is placed on the judgment of the Honorable Apex Court in the case titled Sarla Ahuja vs. united India Insurance Co. Ltd. AIR 1999 SC 100

12. In light of the aforementioned I do not find that there is any jurisdictional error, infirmity or impropriety in the impugned order. The view taken by the learned ARC is not only a possible one but also a probable one and therefore, this Court is not required to interfere with the same.
13. Accordingly the revision petition is dismissed.
14. Pending applications also stand disposed off.

V.K. SHALI, J.

SEPTEMBER 10, 2015
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