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HIGH COURT OF DELHI AT NEW DELHI

Decided on: 3rd November, 2015

+ **RC.REV. 590/2015**

SMT. RAM PYARI

..... Petitioner

Through: Mr. P.K.Trehan, Advocate

Versus

SMT. RAM DULARI

..... Respondent

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

CM APPL.25752/2015 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

RC.REV. 590/2015 and CM APPL.25751/2015 (stay)

1. This is a revision petition filed by the petitioner against the order dated 24.04.2015 by virtue of which leave to defend of the petitioner was dismissed and an order of eviction was passed.
2. I have heard the learned counsel for the petitioner. I have also gone through the impugned order.
3. The main contention of the learned counsel for the petitioner is that the respondent-landlady has not given the details of the complete accommodation available to her. It is his case that the respondent-landlady has one room set each available on the first floor, second

floor and third floor and also one shop on the ground floor, therefore, keeping in view the requirement of the respondent and her family, the accommodation which is available with her is more than sufficient to meet her requirement. It has been stated that because of this reason, the petitioner ought to have been given the leave to defend to contest the matter.

4. It is further contended that in case the petitioner is given leave to defend, he will be able to bring before the Court the evidence which would disentitle the respondent-landlady from claiming possession of the suit premises.
5. I have carefully considered the submission made by the learned counsel for the petitioner. The case which had been set up by the respondent-landlady was that she is the owner of property No.X-3287, Raghubar Pura No.2, Near Gali No.3, Gandhi Nagar, Delhi, situated on a plot measuring just 26½ sq. yds., consisting of ground floor with two rooms which are being used as shop and the first floor and second floor which is being used for residential purpose. It is stated that one room measuring 9 ft x 11.9 ft. is being used as a shop and it is under the tenancy of the present petitioner.

Originally, the husband of the present petitioner was the tenant, however, after his demise, the present petitioner stepped into the shoes of her husband and started paying rent to the respondent-landlady. The other room on the ground floor is under the occupation of the respondent-landlady which is used as a store. The respondent-landlady is stated to be of 80 years of age having one son and two married daughters. The son is also married having his wife and two children, who are in the ages of 18 and 14 years respectively. The accommodation which has been in possession of the respondent-landlady is stated to be a room on the ground floor and one room set each on the first and the second floor. So far as the availability of one room set on the third floor is concerned, the learned Additional Rent Controller (ARC) has not believed the version of the present petitioner as neither the present petitioner has filed any plan nor any photographs depicting any room available on the third floor. Therefore, this plea of the petitioner which was canvassed as a main plea for grant of leave to defend has been disbelieved by the learned ARC.

6. On the basis of the number of family members which admittedly is

not in dispute and are stated to be five in number, the learned ARC has observed that the immediate requirement of the respondent and her married son would be at least four rooms, *i.e.*, one for the respondent, one for her son and daughter-in-law and the two rooms for his adolescent sons. Admittedly, the respondent-landlady has also married daughters and there is no provision for other facilities like a guest room, drawing, dinning, pooja room, etc. which are also essential for the reasonable existence and comfortable living of a person. On the basis of these facts, the Court has observed that keeping in view these facts and the fact that the respondent is a lady of 80 years of age and is suffering from old age ailments, it is totally unreasonable to expect her to climb on to the first floor or to the second floor without inconvenience and therefore, she has every right to retrieve the possession of the suit premises and accordingly, the decree of eviction was passed after rejecting the leave to defend application filed by the present petitioner.

7. The order which has been passed by the learned ARC is a reasoned order duly supported by case law and I do not find that there is anything illegal, improper or any unreasonable with which the said

order can be attacked. As a matter of fact the order runs into 14 pages and I have gone through each word to word and find myself in full agreement with the said judgment. Therefore, there is no reason for this Court to interfere with the order dated 24.04.2015.

8. Suffice it would be here to mention that since the order was passed on 24.04.2015 and by virtue of provision under Section 14 (7) of the Delhi Rent Control Act, the petitioner was given six months time which has already expired on 23.10.2014. Therefore, the petitioner would have to be evicted forthwith. However, in order to obviate any difficulty to the present petitioner, I feel that it will be totally unreasonable not to extend the time to the petitioner to vacate the premises. I, therefore, direct that the petitioner shall vacate the shop in question latest by 31st December, 2015, failing which the respondent shall be free to execute the decree of eviction against her after 31.12.2015.
9. With these directions, the revision petition is rejected.
10. Pending application also stands disposed of.

V.K. SHALI, J.

NOVEMBER 03, 2015/vk