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HIGH COURT OF DELHI AT NEW DELHI

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RC. Revision No.619/2015

Decided on : 27th November, 2015

SUDESH KUMAR BHASIN Petitioner

Through: Mr. Mohd. Rashid, Advocate.

Versus

SATISH SACHDEVA & ANR. Respondents

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is a revision petition by virtue of which the petitioner has challenged the order dated 26.8.2015 vide which the leave to defend has been granted to the respondent to contest the petition for eviction.

2. I have heard the learned counsel for the petitioner and have gone through the impugned order. I have also gone through the judgment of this court relied upon by the petitioner in *Mittar Sain vs. Rajesh Kumar*, RC. Rev. No.196/2013 decided on 22.8.2014. Suffice it would be here to mention that the petitioner, in the instant case, had claimed himself to be the joint owner and the landlord of the property bearing No.2368, Beadonpura, Karol Bagh, New Delhi along with other family members as co-owners. It is stated that the property has a basement bearing Private No.2 which is under the tenancy of the respondent since 1985. The

petitioner is carrying on the business of manufacturing gold jewellery from three shops, two of which are situated on the first floor and one shop is situated on the ground floor of this very property. It has been stated that the petitioner and his sons now want to expand their business and increase their earnings in the same line of manufacturing ornaments and for this purpose, they intend to install machines which require space and hence, they project the *bona fide* requirement.

3. The respondent filed his leave to defend and stated in the same that the petitioner has nearly 40 shops in his possession out of which 16 shops are lying vacant which can be used for his business. It has also been stated that from time to time, the petitioner has been letting out these shops and in case his *bona fide* requirement would have been genuine then he would not have admitted new tenants.

4. The petitioner filed his reply and admitted in the same that instead of 40, he has 57 shops in this very property out of which, three shops on the ground floor and six on the first floor are in his possession; however, it is stated that the said shops are not suitable for doing the business. The learned Rent Controller after considering all these facts has granted leave to defend to the respondent by observing that as this is essentially a requirement for additional accommodation, therefore, this can be proved only by production of evidence. It has also been observed by the Rent Controller that the petitioner is guilty of non-disclosure of certain facts which also entitle the respondent to grant of leave to defend.

5. I do not find that there is any illegality, impropriety or jurisdictional error in the order passed by the learned Rent Controller in granting the leave to defend. This is on account of two reasons. Firstly, the petitioner himself has been guilty of concealment of fact and a person who is coming to court and seeking help of the court for the purpose of eviction of his tenant must disclose all accommodations which are available with him and it is only after disclosure of all the accommodations that the petitioner can say what accommodations are not suitable and give the reasons thereof. It should not be a case where the petitioner simply makes a bald assertion that he does not have an alternative suitable accommodation available to him and when pointed out by the tenant that he has ample accommodations available to him which can be considered to be alternative suitable accommodation, that he starts admitting not only the factum of accommodation but also starts giving justification as to how it is not suitable for him. If such is the case, then this ground in itself entitles the tenant the leave to defend to be granted on the ground of concealment of non-disclosure of correct facts.

6. The second ground is that as the petitioner is owning additional accommodation and presently he is doing the business of manufacturing ornaments and want to enhance or increase his business or his earnings by installation of machines, it becomes a case of additional accommodation. This has to be necessarily justified by production of evidence and establishing his *bona fide* requirement. On this score also, the petitioner cannot get an eviction order against the tenant summarily.

7. Therefore, both these grounds are very valid, genuine and *bona fide* which have been considered by the learned Rent Controller as grounds granting leave to defend to the respondent. So far as the judgment which has been relied upon by the petitioner is concerned, that has no application to the facts of the present case. Accordingly, the petition is totally misconceived and the same is dismissed. Expression of any opinion may not be treated as expression on merits.

V.K. SHALI, J.

NOVEMBER 27, 2015
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