

\$-9 & 10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RC.REV. 70/2016 & C.M. No.4195/2016

ASHOK ANAND & ANR Petitioners

Through Mr. S.K. Sharma and Mr. Prayas
Aneja, Advs.

versus

DROPADI DEVI @ DROPATI DEVI Respondent

Through Respondent in person.

+ RC.REV. 75/2016 & C.M. No. 4322/2016

ASHOK ANAND & ANR Petitioners

Through Mr. S.K. Sharma and Mr. Prayas
Aneja, Advs.

versus

DROPADI DEVI @ DROPATI DEVI Respondent

Through Respondent in person

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **17.05.2016**

Vide the impugned order, the eviction petition stood decreed in favour of the landlady under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA). This was on 31.01.2015. The Trial Court had noted that the eviction petition having been filed under Section 14 (1)(e) of the DRCA, the summary procedure as contained in Section 25-B would be applicable and since after the effective service had been made at the business house of the tenant (6/5256-57, Krishna Nagar, Karol Bagh, New Delhi) and the tenant inspite of service (not

RC.REV. 70/2016 & RC.REV. 75/2016

page 1 of 5

4

only through the registered post but also through the ordinary course as also by affixation and publication in 'Hindu') the tenant not having filed an application seeking leave to defend within the stipulated period, there was little option left with the Trial court but to decree the eviction petition.

On this score, learned counsel for the petitioner states that if the application seeking leave to defend is not filed within the stipulated period, admittedly there was no option with the Trial Court but to decree the eviction petition.

Record shows that summons had been issued in the prescribed format. Attention has been drawn to under Section 25-B of the DRCA. Submission is that the Trial Court had noted that the summons had been effected at the tenanted shop of the tenant which was not his address as in the eviction petition itself, the landlady has disclosed that this property was without amenities i.e. there was no electricity and water and if there is no electricity and water, the premises could not be livable. He is otherwise a resident Narina Vihar and this was well within the knowledge of the landlady. This is the first submission of the learned counsel for the petitioner.

His second submission is connected with his first submission; submission being that the landlady has played fraud upon the tenant.

Admittedly after the date of decree, since there was no stay of proceedings, the Bailiff had gone to execute the decree and the premises had since been peacefully handed over to the landlady on

5
15.12.2015. Learned counsel for the petitioner on this score submits that it was on 15.12.2015, only when the Bailiff had gone to his house that he learnt about the eviction decree having been passed against him.

This Court notes the manner in which the service has been effected upon the tenant. The Trial Court has rightly noted the position on this count which is to the effect that the summons in the ordinary course as also through registered post (in the prescribed format as contained in Schedule III of the DRCA) were sent to the tenant and the same were received back with the report that the premises are lying locked. The address on which the summons were sent was 6/5256-57, Krishna Nagar, Karol Bagh, New Delhi. This was the tenanted premises. This is also the business house of the tenant. In the eviction petition itself, the landlady has clearly stated that this property had been leased out to the tenant for a commercial purpose i.e. for the purpose of a godown which has been rented out at a monthly rent of Rs.605/-. The submission of the learned counsel for the petitioner that this was not the place where the tenant was running his business house is thus wholly incorrect. The business house of the petitioner is the place where the landlord/landlady is required to serve the summons. This is clear from the language of section 25(B) (3) of the said Act. Summons were duly served. At the cost of repetition, they were sent both through ordinary post and registered A.D. Post (nothing has been brought on record to contradict this submission).

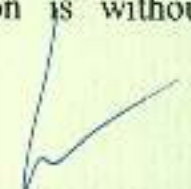
6

They additional served through publication in 'Hindu' as also affixation. In the eviction petition, the petitioner has stated that amenity of electricity and water had not been furnished at the time of tenanting out the premises but does not in any manner mean that there was no electricity and water. It only means that the electricity and water charges were not to be borne by the landlord. It is also not the case of the petitioner that there was no electricity and water for all the years when he is running his godown which is w.e.f. last several years (years not specified) but the fact that the earlier rent was Rs.400/- per month which thereafter was increased to Rs.605/- reflects a long term tenancy. Submission of the petitioner that the landlady has played fraud upon the tenant is thus wholly incorrect. It was incumbent upon the landlady to have served the summons as prescribed in Schedule III of Section 25-B of the DRCA which at the cost of repetition was duly done at the address mentioned in the eviction petition. His submission that this was not his business house is negatived by the fact that he was running a godown there. Only because the landlady had not provided electricity and water did not mean that there was no electricity and water. This Court also notes the purpose of the tenancy was a godown which has been so stated in the eviction petition. This was the purpose for which the premises has been let out.

Service having been effected in the duly prescribed format and no application seeking leave to defend having been filed by the petitioner / tenant within the stipulated period, the Trial has rightly

7
decreed the eviction petition. The peaceful possession of the premises is also with the landlady.

In view of the factual narration as noted supra, the impugned order calls for no interference. Petition is without any merit. Dismissed.



INDERMEET KAUR, J

MAY 17, 2016

A