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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 456/2012

MRITUNJAY KAPUR & ORS

..... Petitioners

Through Mr. Rikky Gupta, Adv.

versus

GURJIT KAUR

..... Respondent

Through Mr. S.C. Singhal, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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16.02.2016

The order impugned before this Court is the order dated 14.12.2015 passed by the Rent Control Tribunal (RCT) which had endorsed the judgment passed by the Additional Rent Controller (ARC) dated 25.08.2010 whereby the petition filed by the landlord under Section 14 (1)(a) of the Delhi Rent Control Act (DRCA) stands decreed.

The present eviction petition has been filed by the landlord Gurjit Kaur under Section 14 (1)(a) of the DRCA. The Trial Court had returned a finding that arrears of rent had not been paid by the tenant in spite of a legal notice (Ex.PW-1/4). Section 14 (2) of the DRCA provides that no order for possession of the tenanted premises shall be made in case the tenant complied with the order made by the Court under Section 15 (1) of the DRCA. The order passed by the ARC under Section 15 (1) of the DRCA was dated 03.01.2001. The

Court returned a finding that pursuant to this order, rent had been deposited in the Court till June, 2010. The impugned order was passed on 25.08.2010 and the submission of the tenant that the rent for the month of July, 2010 had also been paid to the landlord was noted. Protection of Section 14 (2) of the DRCA was accordingly granted to the tenant. Possession of the premises was accordingly not delivered to the landlord.

This order was challenged before the RCT. The RCT vide the impugned judgment dated 14.12.2010 had endorsed the finding returned by the ARC. The evidence led before the Trial Judge had been noted. The whole thrust of the argument propounded before the ARC as also before the RCT was that there was no relationship of landlord-tenant between the parties and this has not been correctly appreciated. The ARC had noted the evidence of AW- as also the sale deed by virtue of which Gurjit Kaur had claimed status as an owner/landlord of the said property. In the evidence on record, it is shown that L. Gopinath had sold this property to Ajay Gupta who in turn had sold it to D.N. Mehra. D.N. Mehra who was working as attorney had sold this property to himself vide registered sale deed. D.N. Mehra had thereafter sold this property to the present landlord/owner Gurjit Kaur. This petition had been filed by Gurjit Kaur. All these documents were proved on record. Vide Ex.AW-1/2, the registered sale deed Gurjit Kaur had purchased this property from D.N. Mehra. This sale deed had also detailed the status of R.K. Kapur in the property; he was a tenant and Mritunjay Kapur is the son of R.K. Kapur.

The definition of 'landlord' given in Section 2 (2) of the DRCA includes the person who is entitled to receive rent from the tenant. The transferee Gurjit Kaur fitted into that status. She had given notice to the tenant to pay arrears of rent but he had failed to pay the rent. At the cost of repetition, the sale deed (Ex.AW-1/2) had detailed the name of the tenant as also the rate of rent which Gurjit Kaur was entitled to receive from R.K. Kapur (the father of the present petitioner). The notice of demand dated 22.08.1998 had been proved as Ex.AW-1/4.

This evidence was construed in the correct perspective by the RCT. The RCT had also noted that under Section 116 of the Indian Evidence Act, the tenant or any person claiming through such a tenant during the continuance of the tenancy shall not be permitted to deny the status of the landlord or his title to such an immoveable property. The provisions of Section 116 of the Indian Evidence Act were legally and correctly construed by the RCT.

This Court is sitting in its power of superintendence under Article 227 of the Constitution of India. Unless and until, there is a patent illegality or a perversity which is staring on the face of the record, the finding returned by the two concurrent fact finding courts below calls for no interference. At the cost of repetition, the whole thrust of the argument of the learned counsel for the petitioner is based upon his submission that Gurjit Kaur is not the owner/landlord.

Her owner/landlord status stands fully established by the two concurrent fact finding Courts. The impugned judgment calls for no interference.

Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 16, 2016
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