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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RC.REV. 211/2013 & C.M. Nos.9076/2013, 10658/2013, 6913/2014
& 13646/2014

MRITUNJYA 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

This Court has been informed that the property has since been handed over by the tenant to the landlord on 17.09.2015 and the learned counsel for the landlord submits that this petition has become infructuous and it does not really merit any consideration but the learned counsel for the petitioner insists that the matter should be disposed of on merits.

The petitioner before this Court is Mritunjya Kapur. He is the tenant in the Trial Court. The eviction petition filed by the respondent/landlord Gurjit Kaur had been decreed. This was a petition under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA). The parties had been relegated to trial as the application filed by the tenant seeking leave to defend had been granted in his favour. It was after trial that the ARC vide the impugned judgment had returned a finding that the landlord is entitled to a decree.

The premises in dispute are premises No. IV/1/56, Gopinath Bazar, Delhi Cantt. The premises had been let out for non-residential purpose to R.K. Kapur and the petitioner before this Court is the son of R.K. Kapur. The initial rate of rent was Rs.30/-. It was thereafter enhanced to Rs.33/-.

The contention of the landlord (Gurjit Kaur) was that she had purchased this property from D.N. Mehra vide a registered sale deed. Admittedly it is registered document. D.N. Mehra had in turn purchased this property from Ajay Gupta. This was also a registered sale deed. Ajay Gupta had purchased this property from L. Gopinath who was the original allottee of this property by virtue of allotment of the year 1930-31.

The only argument which has been made before this Court today is that there was no relationship of landlord-tenant between the parties; Gurjit Kaur had not stepped into the shoes of erstwhile landlord/owner. This submission which has been urged before this Court had been urged before the Trial Court also. Learned counsel for the petitioner has placed reliance upon 2002 (3) SCC 98 J.J. Lal Pvt. Ltd. Vs. M.R. Murali & Anr. as also (2014) 2 SCC 788 Tribhuvanshankar Vs. Amrutlal to advance his submission.

It is an admitted case of the petitioner/tenant that the original allottee was L. Gopinath. This property had been allotted to him in the year 1930-31. The father of the petitioner R.K. Kapur had taken this property on rent from L. Gopinath. This is also an admitted fact. In the course of trial, the landlord proved her power of attorney by virtue of which she was permitted to depose on behalf of her husband

Mahinder Jeet Singh Mattoo. This document was proved as Ex.PW-1/1. Vide Ex.PW-1/2, it was proved that a registered perpetual lease deed dated 04.04.1996 was executed in favour of Ajay Gupta. On 14.05.1990, Ajay Gupta vide an agreement to sell had executed this document in favour of D.N. Mehra (Ex.PW-1/3). The sale deed dated 20.02.1996 was executed in favour of D.N. Mehra. This was executed by D.N. Mehra in favour of himself. D.N. Mehra was acting as an attorney of Ajay Gupta. These documents were proved as Ex.PW-2/1 and Ex.PW-1/6 respectively. The registered sale deed (Ex.PW-1/7) dated 22.09.1996 was executed by D.N. Mehra in favour of Gurjit Kaur. These sale deeds were also proved through the summoned record keeper i.e. the LDC from the office of the competent authority who had executed these sale deeds.

The tenant before this Court has not challenged the sale deeds. These documents are admittedly registered documents and they have a presumption of law in their favour in terms of Section 79 of the Indian Evidence Act in view of certified copies of these documents having been placed on record. The submission of the learned counsel for the petitioner that this property could not be sold as it was under the control of Delhi Cantonment Board was considered and rightly rejected as the ownership/landlord status of Gurjit Kaur was premised on a registered sale deed (un-challenged document). Even presuming that this property had been sold without requisite permission from Delhi Contonment Board yet the sale deed being an un-challenged document, it would not disturb the status of the landlord/owner Gurjit Kaur.

The Trial Court had also gone on to hold that in a petition under Section 14 (1)(e) of the DRCA, it is not the status of the owner which is relevant; it is the status of a landlord which is relevant. This legal position is correct.

The admitted position thus being that R.K. Kapur (father of the petitioner Mritunjay Kapur) was admittedly a tenant of the erstwhile owner i.e. of L. Gopinath. The ownership status thereafter passed on to Ajay Gupta, from Ajay Gupta to D.N. Mehra and then to Gurjit Kaur. The status of the landlord Gurjit Kaur who had stepped into the shoes of the erstwhile landlord (starting from the chain of L. Gopinath) remained unaffected. The fact that she was the landlord stood proved by the documents proved by her in the course of evidence which included a sale deed executed by the last owner D.N. Mehra.

The principle of estoppel as contained in Section 116 of the Indian Evidence Act fully applies in such a situation. The tenant is stopped from challenging the status of the present landlord; once the tenant/ erstwhile landlord status stood established i.e. between R.K. Kapur and L. Gopinath, the subsequent title having passed on to Gurjit Kaur could not be the subject matter of any opposition by the tenant in view of the admitted fact that Gurjit Kaur by virtue of registered documents had become the owner/landlord of this property. All this was considered by the Trial Court in its correct perspective. The judgments relied upon by the learned counsel for the petitioner lay down an unequivocal proposition that it is the relationship of landlord-tenant qua the parties which has to be established to

propound an order under the DRCA. These judgments in no manner come to the aid of the petitioner.

No other argument has been pressed before this Court.

This Court is sitting in its power of revision. Unless and until there is a patent illegality in the order of the Trial Court, the impugned judgment calls for any interference. Petition is without any merit. Dismissed with cost quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 16, 2016/A