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

+ CM(M) 1112/2016 & CM No.41085/2016

RAMESH CHAND Appellant

Through Mr.Rajat Aneja, Adv.

versus

SHYAMA ARORA Respondent

Through Mr.Mohd.Fariq and Ms.Swati Guha
Mazumdar, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **15.12.2016**

1. A request is made by learned counsel for the respondent for an adjournment as they say they would like to file reply. As the issue is already covered by large number of judgments of this court, need is not felt to adjourn the matter.

2. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 15.7.2016 passed by the Additional Rent Controller whereby the Additional Rent Controller dismissed the Eviction Petition of the petitioner which had been filed on the ground of need of the daughter in law i.e. wife of elder son. The ARC held that the son of the petitioner Shri Raju is doing some private job. His wife Poonam cannot be said to be dependent upon the petitioner during the lifetime of her husband Shri Raju who is employed. Hence, the Eviction Petition was dismissed.

3. Section 14(1)(e) of the Delhi Rent Control Act reads as follows:-

“14. Protection of tenant against eviction. –

(1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by and court or Controller in favor of the landlord against a tenant:

(e) That the premises let for residential purpose are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and the landlord or such person has no other reasonably suitable residential accommodation;”

4. This Court in *Anil Kumar Gupta vs. Deepika Verma*, 224 (2015) DLT 473 elaborated the concept of dependent as stated in Section 14(1)(e) of the DRC Act and noted as follows:-

“12. Customarily or in common parlance a dependent would be defined as any person who is reliant on another either for financial or physical support for sustenance of life. It is pertinent to note that the word dependent or as to what constitutes a family has nowhere been defined in the Delhi Rent Control Act. Rather, the legislators consciously and deliberately have used the words "any member of family dependent on the landlord" instead of defining a clear degree of relations so as to construe a wider meaning to the aforesaid words as man is a social creature and part of a complex societal system involving myriad of relations from which he cannot be isolated. It is significant to understand that the dependency is not restricted to financial or physical but will also include emotional reliance on another person. Reliance in this regard is placed on the findings of this court in M/S. Jhalani Tools (India) Pvt. Ltd. vs. B.K. Soni; AIR 1994 Delhi 167, wherein the court observed that the social set up

of our society is such where a married daughter continues to enjoy a place of pride in her maternal home and therefore while considering the requirement of the landlord her married daughter and her expected visits cannot be lost sight of. Similarly in *Sain Dass v. Madan Lal*; 1972 Ren CJ (SN) 8 (Delhi), this Court has acknowledged that the word "himself" has to be construed to mean "himself" as cohabiting with his family members with whom he is normally accustomed to live. Therefore, contrary to the submissions of the learned counsel for the petitioner financial or physical incapacitation cannot be the sole premises for determining dependency on another.

13. The Honorable Supreme Court in *Corporation of the City of Nagpur v. The Nagpur Handloom Cloth Market Co. Ltd.*, AIR (1963) SC 1192 while interpreting the word "Family" observed as under :

"But the expression 'family' has according to the contest in which it occurs, a variable connotation. It does not in the setting of the rules postulate the existence of relationship either of blood or by marriage between the persons residing in the tenement Even a single person may be regarded as a family, and a master and servant would also be so regarded."

14. As it crystallizes from the aforesaid the word dependent cannot be constructed in a narrow and literal manner. The same have to be interpreted judiciously keeping in mind the intent of the legislators. As discussed above the words used under S.14 (1) (e), are "any member of family dependent on him" which would include the daughter in law who in the instant matter is dependent on her mother in law/landlady (respondent herein) and on account of sharing of residence both the daughter in law and the respondent are physically, emotionally and financially inter-dependent."

5. Reference may also be had to the judgment of the Supreme Court in ***Joginder Pal vs. Naval Kishore Bahl* (2002) 5 SCC 397** and of this Court in

Khem Chand Ramesh Kumar vs. Vijay Mehra, 2015(216) DLT 544.

6. Hence, the phrase “any member of the family dependent upon him” could include the daughter-in-law. The impugned order suffers from material illegalities. It has ignored settled legal position. Accordingly, the impugned order is quashed and the matter is remanded back to the ARC to consider afresh after giving an opportunity to both the sides to make their argument on the evidence/pleadings/documents already on record. The ARC may expeditiously deal with the matter and dispose of the same.

7. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

DECEMBER 15, 2016

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