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

+ RC.REV. 589/2016 & CM No.45482/2016 (stay)

RAKESH KUMAR & ANR Petitioner

Through Mr.Ravish K.Goyal, Adv.

versus

M/S KAPUR CHAND AND SONS Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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15.12.2016

1. By the present petition the petitioner seeks to impugn the order dated 6.6.2016 by which the Eviction Petition filed by the petitioner under section 14(1)(e) of the DRC Act on the ground that the bona fide requirement projected by the landlord to settle his son aged 33 years was dismissed. The ARC held that 33 year old son cannot be dependent upon his father.

2. 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;”

3. 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."

4. 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*.

5. In view of the above settled legal position, the findings recorded in the impugned order by the ARC that the son of the petitioner who is 33 year old, is not dependent, is an erroneous finding. The said son can be dependent for his residence, financial or emotional needs or for such other purposes. Accordingly, it is manifest that the impugned order suffers from material illegality. The order is accordingly quashed. The matter is remanded back to the ARC to consider afresh in the light of the above legal position. The ARC will consider the objections afresh after giving a fresh opportunity to the

parties to make their submissions based on the pleadings, evidence and documents already on record. The ARC is requested to expeditiously deal with the petition preferably within three months.

6. Petition is disposed of. All pending applications also stand disposed of. Parties to appear before the ARC on 27.1.2017.

JAYANT NATH, J

DECEMBER 15, 2016

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