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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 432/2015 & C.M. No.15240/2015**
VIKAS KUMAR CHAURASIA

..... Petitioner

Through Mr. Rajat Wadhwa, Mr. Anshul
Gupta and Mr. M.K. Mehta, Advs.

versus

M/S ANIL SALES CORPORATION & ANR

..... Respondents

Through None.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **02.05.2016**

The petitioner is the landlord in the Trial Court. He had filed the eviction petition under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA). The bonafide ground pleaded by him was that the premises i.e. a room on the mezzanine floor (as depicted in the red colour in the site plan) bearing part of property No. 3724, Harkhewalan, Delhi was required by him for the need of his brother who is to be married shortly and as such the premises are required for his residential purpose.

The eviction petition discloses this need in para 18. It is stated that the total family members of the petitioner are 8 which includes his mother, his father, the petitioner and his wife and one child, two brothers of whom one is married and has a child and the other is proposed to get married in December, 2013. The site plan has been filed along with the eviction petition. Room at point 'B' is occupied by his married brother. Room 'C' is the living-cum-dining room.

Room 'D' is the kitchen and room 'E' is occupied by his parents. Room 'F' is occupied by the petitioner along with his family. Other rooms on the ground floor cannot be used since they are being used for running regular business. The bonafide need is for the brother of the petitioner who is to be married in December, 2013. There is no other vacant room available in the premises. The eviction petition was accordingly filed.

In the application seeking leave to defend, the ground raised by the tenant was that the petitioner landlord has alternate property at 3564/11 & 3564/12 known as Ravi Raj Market, Gali Hakim Baqua, Hauz Qazi, Chawri Bazar, Delhi. He also owns other properties.

In the reply filed by the landlord to this corresponding paragraph, it was stated by the landlord that the properties at 3564/11 & 3564/12 are the shop of the petitioner and the brothers of the petitioner also work there. There are not a vacant property but are being used for his residential and commercial purposes.

The Trial Court on the basis of the pleadings had granted leave to defend.

This Court is of the view that the impugned order suffers from no infirmity. The twin requirements for establishing and proving case in order to obtain a decree under summary procedure under Section 14 (1)(e) of the DRCA that the landlord must necessarily plead that the premises are required bonafide by him. The genuineness of the need of the landlord has to be explicitly explained. The second requirement of Section 14 (1)(e) is that the landlord must also state

that he has no other reasonably suitable accommodation which can be used by him for the said purpose and as such the premises in dispute are required by him.

A perusal of the eviction petition shows that the second requirement has not been met with. There is no specific plea in the entire body of the petition that there is no other reasonable suitable accommodation available with the petitioner. Presuming that the brother of the petitioner is the family of the petitioner and is dependent upon him (although not specifically pleaded) yet this Court is of the view that it was incumbent upon the landlord to have specifically stated that there is no other alternate accommodation which is reasonably suitable for this need which has been projected in this eviction petition. This ingredient is absent. A perusal of the eviction petition persuades this Court to arrive at this finding.

The submission of the learned counsel for the petitioner that the Court should read words into the averments and it is the meaningful pleading which has to be gathered from the averments made in the eviction petition is in the view of this Court not permissible as this averment should have been explicitly pleaded by the landlord.

The landlord in these proceedings is seeking a decree in a summary manner from a tenant; he wants to oust him from the proceedings without a trial; the least that can be expected from the landlord is his specific averment qua the twin requirements which have been held to be necessary ingredients for a petition under Section 14 (1)(e) of the DRCA and this has been reiterated by the

Courts time and again.

The Trial Court in addition had also noted that the alternate accommodation at 3564/11 & 3564/12 may be turn out to be an alternate accommodation and which may require trial. This is especially so in view of the reply filed by the landlord wherein he has stated that these aforementioned two properties were being used by his family i.e. his brothers and himself for a commercial purpose and residential purpose. Thus the argument sought to be propounded by the landlord that the petitioner and his family live in a joint family and cannot be forced to separate is negatived wherein the aforementioned two properties i.e. 3564/11 & 3564/12 are also being used by the petitioner and his family members for a residential purpose and this is apart from the accommodation where they are already staying.

This Court is of the view that triable issues having arisen, the impugned order suffers from no infirmity. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

MAY 02, 2016

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