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

+ CM(M) 21/2016 & CM No.1029/2016 (stay)

GAURI & ANR

..... Petitioners

Through Ms.Rashmi Jain & Ms.Usha Singh,
Advocates

versus

VISHWANATH & ORS

..... Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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03.01.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 02.12.2015 by which the Rent Control Tribunal (*hereinafter referred to as the 'RCT'*) dismissed the appeal of the petitioners seeking to challenge the order of eviction passed under Section 14(1)(a) of the Delhi Rent Control Act (*in short the 'DRC Act'*).

2. The respondents filed a petition under Section 14(1)(a) of the DRC Act regarding the property No.1454, Block-E, Jahangir Puri, Delhi. The petition was allowed on 02.06.2014 by which order the ARC held that the respondents have proved the ingredients of Section 14(1)(a) of the DRC Act. On 23.08.2014 the ARC concluded that the benefit of Section 14(1)(a) of the DRC Act cannot be granted to the petitioners and passed an order of eviction against the petitioners.

3. Before the appellate court the main argument which was urged by the petitioner was that the property was allotted to Sh.Gokul, father-in-law of petitioner No.1 as a licensee. The wife of Sh.Gokul, Smt. Laxmi who is also the mother-in-law of petitioner No.1 is said to have sold the property to one Smt. Nanda. It is urged that such sale was wholly illegal and no such sale is permissible as it is a leased property. Reliance is also placed on the information received under RTI in this regard. The RCT however held that in view of the registered sale deeds which were exhibited as Ex.AW1/2 and AW1/3, Smt. Laxmi, mother-in-law of petitioner No.1 had entered into an Agreement to Sell with Smt.Nanda. Thereafter, Smt.Nanda inducted Sh.Laxmi and Sh.Bhim, late husband of petitioner No.1 as tenants and hence, the said Smt.Nanda was said to have a better title than Smt.Laxmi and Sh.Bhim. The appeal was hence dismissed.

4. I have heard the learned counsel for the petitioners.

5. The learned counsel for the petitioners has reiterated her submissions as above.

6. The admitted facts are that Sh.Gokul was allotted the property in 1976. He expired in 1990. In 1999 his son Sh.Bhim who is also the husband of petitioner No.1 executed a relinquishment deed in favour of the mother Smt.Laxmi. Smt.Laxmi sold the property in 2006 to Smt.Nanda vide an Agreement to Sell. She has died in 2009.

7. In the light of the above facts and considering as rightly held by the RCT, the present petition cannot be converted into title suit pending between the petitioners and other family members and all that is required of the respondents landlord was to have a better title than the petitioners.

8. The Supreme Court in the case of *M/s Boorugu Mahadev & Sons &*

Anr. vs. Sirigiri Narasing Rao & Ors. JT 2016 (1) SC 256, held as follows:-

“19. It is also now a settled principle of law that the concept of ownership in a landlord-tenant litigation governed by Rent control laws has to be distinguished from the one in a title suit. Indeed, ownership is a relative term, the import whereof depends on the context in which it is used. In rent control legislation, the landlord can be said to be the owner if he is entitled in his own legal right, as distinguished from for and on behalf of someone else to evict the tenant and then to retain control, hold and use the premises for himself. What may suffice and hold good as proof of ownership in landlord-tenant litigation probably may or may not be enough to successfully sustain a claim for ownership in a title suit. (vide *Sheela & Ors. vs. Firm Prahlad Rai Prem Prakash*, (2002) 3 SCC 375).”

9. Similarly, this court in the case of ***Puran Chand Aggarwal vs. Lekh Raj, 210 (2014) DLT 131*** held as follows:-

“34. It is settled law that in the context of the Act what appears to be the meaning of the term "owner" is that à the tenant the owner should be something more than the tenant. The position in law is that the "ownership" of the landlord for the purpose of maintaining a petition under Section 14(1)(e) of the Act is not required to be an absolute ownership of the property, and that it is sufficient if the landlord is a person who is collecting the rent on his own behalf. The imperfectness of the title of the premises can neither stand in the way of an eviction petition under Section 14(1)(e) of the Act, nor can the tenant be allowed to raise the plea of imperfect title or title not vesting in the landlord and that too when the tenant has been paying the rent to the landlord. The tenant inducted by landlord is estopped and cannot dispute the title of his landlord in view of the provisions of Section 116 of the Indian Evidence Act without there being any subsequent change in the situation. This aspect has been discussed in the following judgments:

- i. Shanti Sharma vs. Smt. Ved Prabha, AIR 1987 SC 2028
- ii. Zahid Hussain thr. LRS vs. Aenul Haq Qureshi thr. LRS, 2005 (1) RCR 323
- iii. Ram Chander vs. Ram Pyari, 109 (2004) DLT 388
- iv. Mukesh Kumar vs. Rishi Prakash, 174 (2010) DLT 64
- iv. Rajender Kumar Sharma & Ors. vs. Smt. Leela Wati & Ors., 155 (2008) DLT 383
- v. Meenakshi vs. Ramesh Khanna & Anr., 60 (1995) DLT 524
- vi. Tej Pal Gupta vs. Rattan Singh, 160 (2009) DLT 726
- vii. Kamla Rani & Ors. vs. Texmaco Ltd., 139 (2007) DLT 61
- ix. Keshar Lal H. Pardeshi vs. Vithal S. Patole, (2005) 10 SCC 249
- x. Ramesh Chand vs. Uganti Devi, 157 (2009) DLT 450
- xi. M.M. Quasim vs. Manohar Lal Sharma, (1981) 3 SCC 36
- xii. B.R. Anand vs. Prem Sagar, 2002 (1) RCR (Rent) 234
- xiii. D. Rani Puri vs. Chanan Lal, 65 (1997) DLT 313
- xiv. Shree Ram Sharma vs. Mohd. Sabr, 178 (2011) DLT 1
- xv. Bharat Bhushan Vij vs. Arti Teckchandani, 153 (2008) DLT 247
- xvi. Jiwan Lal vs. Gurdial Kaur & Ors., 57 (1995) DLT 262”

10. Accordingly, I see no reason to interfere with the impugned order. The petition is dismissed. All the pending applications are also dismissed.
11. Admittedly, the eviction order already stands executed.

JAYANT NATH, J.

JANUARY 03, 2017/v