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

% Date of decision: 10.03.2017

+ RC.REV. 69/2017

HARVINDER SINGH Petitioner
Through Mr.Madan Lal Sharma, Advocate

versus

AFSAR KHAN Respondent
Through Mr.Zakir Raza, Advocate

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. By the present revision petition filed under section 25-B(8) of the Delhi Rent Control, Act, 1958 the petitioner seeks to impugn the order dated 5.10.2016 by which order the trial court while considering the application of the respondent seeking leave to defend dismissed the Eviction Petition.
2. The petitioner has filed the eviction petition under section 14(1)(e) of the DRC Act stating that the petitioner is the owner of the tenanted premises. It is stated that the elder son of the petitioner Shri Harmeet Singh who is pursuing Mechanical Engineering and was in the third year as on 18.1.2014, has made up his mind to start his own profession from the tenanted premises. Hence, the Eviction Petition has been filed.
3. The ARC by the impugned order took up the application for leave to defend filed by the respondent. However, instead of adjudicating upon the said application it dismissed the Eviction Petition holding that it is a matter

of common knowledge that the person who holds a degree in Mechanical Engineering is a human resource and not a professional. It also noted that in case such a person wants to work as a professional his nature of work has to be put forth *ab initio*. Hence, it concluded that the need raised is bogus. It also held that the person who holds a degree in engineering cannot be dependent on his father and that as understood in legal terms a major son who qualifies to be an engineer cannot be held to be dependent on his parents. Accordingly, the Eviction Petition was dismissed.

4. 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;”

5. Hence a landlord may for his own use or requirement of any member of his family dependent upon him institute an eviction petition for bona fide requirement. The word dependent has been interpreted in a catena of judgments.

6. As far as the dependency of the son on his father is concerned, reference may be had to the judgment of the Supreme Court in the case of *Joginder Pal vs. Naval Kishore Behal*, (2002) 5 SCC 397. The Supreme

Court in para 33 held as follows:-

“33. Our conclusions are crystallised as under:

(i) the words 'for his own use' as occurring in Section 13(3)(a)(ii) of the East Punjab Urban Rent Restriction Act, 1949 must receive a wide, liberal and useful meaning rather than a strict or narrow construction.

(ii) The expression -- landlord requires for 'him own use', is not confined in its meaning to actual physical user by the landlord personally. The requirement not only of the landlord himself but also of the normal 'emanations' of the landlord is included therein. All the cases and circumstances in which actual physical occupation or user by someone else, would amount to occupation or user by the landlord himself, cannot be exhaustively enumerated. It will depend on a variety of factors such as inter-relationship and inter-dependence--economic or otherwise, between the landlord and such person in the background of social, socio-religious and local customs and obligations of the society or region to which they belong.

(iii) The tests to be applied are : (i) whether the requirement pleaded and proved may properly be regarded as the landlord's own requirement? and, (ii) Whether on the facts and in the circumstances of a given case actual occupation and user by a person other than the landlord would be deemed by the landlord as 'his own' occupation or user? The answer would, in its turn, depend on (i) the nature and degree of relationship and/or dependence between the landlord pleading the requirement as 'his own' and the person who would actually use the premises; (ii) the circumstances in which the claim arises and is put forward, and (iii) the intrinsic tenability of the claim. The Court on being satisfied of the reasonability and genuineness of claim, as distinguished from a mere ruse to get rid of the tenant, will uphold the landlord's claim.

(iv) While casting its judicial verdict, the Court shall adopt a practical and meaningful approach guided by the realities of life.

(v) In the present case, the requirement of landlord of the suit premises for user as office of his chartered accountant son is the requirement of landlord 'for his own use' within the meaning of Section 13(3)(a)(ii).”

That was also a case where an eviction petition has been filed by the landlord for the use of his chartered accountant son.

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

“36. It is also settled principle of law that the landlord is entitled to seek eviction of tenanted premises not only for himself/herself, but for other dependant family members. There is no dispute that the parents are under moral obligation to help establish their sons in business and can seek eviction of the tenanted premises for them. Reference in this regard can be made to the case of Joginder Pal v. Naval Kishore Behal, IV (2002) SLT 27= (2002) 5 SCC 397, where the Supreme Court held that:

The requirement is not the requirement of the landlord alone in the sense that the landlord must for himself require the accommodation and to fulfill the requirement he must himself physically occupy the premises. The requirement of a member of the family or of a person on whom the landlord is dependent or who is dependent on the landlord can be considered to be the requirement of the landlord for his own use..... Keeping in view the social or socio-religious milieu and practices prevalent in a particular section of society or a particular region, to which the landlord belongs, it may be the obligation of the landlord to settle a person closely connected with him to make him economically independent so as to support himself and/or the landlord. To discharge such obligation the landlord may require

the tenancy premises and such requirement would be the requirement of the landlord.

Some of the other judgments which deal with the similar issue are:-

i) *Kharati Ram Khanna & Sons. vs. Krishna Luthra*, 2010 (172) DLT 551, wherein it was observed that the requirement of the landlord to settle down her two sons separately and independently was found to be genuine and bonafide.

ii) In *Labhu Lal vs. Sandhya Gupta*, 2010 (173) DLT 318, it was observed that the landlord's son and daughter in law are dependent for accommodation on respondent the requirement of the landlord's son and daughter in law for expanding clinic being run in premises in question is genuine.

iii) In *Sh. Ravinder Singh v. Sh. Deepesh Khorana* (RC. Rev. No. 3/2011, Date of decision: 10th December, 2012), it was observed that the son of the respondent is unemployed and is dependent on respondent for his livelihood. It is nothing but bona fide for the respondent to require the suit shop to set up a computer business for his son and to help him find a source of income and subsequently settle down in life.

iv) In *Brij Mohan vs. Shri Pal Jain*, 49 (1993) DLT 543, it was observed that it is settled law that grown up children require separate rooms to live in a manner he or she likes.

v) In *Ram Babu Aggarwal v. Jay Kishan Das*, 2009 (2) RCR 455, the court recognized the right of the landlord for possession of his property for setting up a business for his son.”

8. 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.”

9. Hence, the phrase “any member of the family dependent upon him” could include the ‘son’. It is clear that a father is under a moral obligation to establish his son in a business and can seek eviction of the tenanted premises for him. The finding recorded by the ARC, namely, that a person holding a degree in engineering cannot be said to be dependent upon his father is an observation which is contrary to the settled legal position. The impugned order suffers from material illegality. The order is accordingly quashed. The matter is remanded back to the ARC. Parties to appear before the ARC on 11.4.2017. The ARC is requested to *de novo* hear the arguments in the matter and pass orders. The ARC is also requested to expeditiously deal with the application filed by the respondent seeking leave to defend and dispose of the same as per law. Present petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

MARCH 10, 2017

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