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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 30th November, 2017

+ RC.REV. 348/2017 & CM Nos. 26920/2017, 42417/2017

VIJAY KUMAR ARORA Petitioner

Through: Mr. Brijesh Kr. Tamber,
Advocate.

versus

TILAK RAJ CHADHA Respondent

Through: Mr. Rakesh Kumar Singh with
Mr. Sunil Lalwani, Advocates.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The matter had earlier been listed for 6th December, 2017. However, on the application (CM No.42417/2017) of the respondent, it has come up today. With the consent of learned counsel on both sides, the date of hearing is advanced and the matter is taken up for hearing.

2. The petitioner herein is admittedly a tenant in the suit premises described as shop No.143, Desh Bandhu Gupta Market, Karol Bagh, New Delhi-05 as shown in colour red in the site plan annexed to the application. A case for eviction (E-213/17/12) was instituted against him by the respondent (landlord) on 28.05.2012 on the ground of *bona fide* need under Section 14(1)(e) of the Delhi Rent Control Act, 1958. Upon being served with the said summons, in terms of the procedure envisaged under Section 25-B of Delhi Rent Control Act,

19581, he filed an application before the Additional Rent Controller seeking leave to defend. The said application was considered by the Additional Rent Controller by order dated 22.04.2017 such leave having been denied, it resulting in an order of eviction being passed, the same is challenged by him through the petition at hand.

3. The ground on which the petitioner sought the leave to contest in the eviction proceedings taken out by the respondent was that he (respondent) had available to him, alternative accommodation for the purposes of setting up his son in his independent business, reference being made in this context to two specific premises, one in property bearing No.4/54/55, Saraswati Marg, WEA, Karol Bagh, New Delhi and the other in premises No.C-1/5, Tibia College, Karol Bagh, New Delhi. The Rent Controller rejected the reference to both the said premises holding that they cannot be said to be available as suitable alternative accommodation.

4. Having heard the learned counsel on both sides and having gone through the record of the Rent Controller, this court finds no error in the view taken by the court below. The respondent in his eviction petition had come up on his own with the explanation that the property at Saraswati Marg was under tenancy of one Gaurav Bawa since 2005. The plea of the petitioner that such premises are actually in the use and occupation of Tarun Chadha, son of the respondent in his own rights, the documents showing such tenancy since 2005 being false and fabricated, is unfounded and unsubstantiated by any cogent material and, thus, has been rightly rejected by the impugned order. The premises in Tibia college area are not even owned by the

respondent. It is an undisputed case that the respondent only holds permissive rights of a licensee, even such licence having been terminated upon issuance of a notice in 1998 for its vacation.

5. Such premises which are not owned by the respondent cannot be referred as a suitable alternative accommodation available to fulfill the needs of the landlord/owner of the property.

6. In the aforementioned facts and circumstances, reliance on the decisions of learned Single Judges of this court in *Deepak Gupta vs. Sushma Aggarwal*, RC.Rev.180/2013, decided on 24.07.2013, and *Narender Kumar Manchanda & Anr. vs. Hemant Kumar Talwar*, RC Rev.107/2012, decided on 10.12.2012, is misplaced.

7. The petition is, thus, found to be devoid of substance and is dismissed.

8. Pending applications also stand disposed of.

NOVEMBER 30, 2017

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R.K.GAUBA, J.