

\$~58.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. No.366/2017 & CM No.28526/2017 (for stay).
BHAGWAN DAS Petitioner

Through: Mr. R.S. Bhatia, Adv.

versus

GEETA GUPTA Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **09.08.2017**

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order (dated 6th February, 2017 in ARC No.87/2015 of the Court of Additional Rent Controller, Shahdara District, Karkardooma Courts, Delhi) of dismissal of the application filed by the petitioner / tenant for leave to defend the petition for eviction filed by the respondent / landlady under Section 14(1)(e) of the Act and the consequent order of eviction of the petitioner/tenant from a shop bearing no.13/3, Chhota Bazar, Shahdara, Delhi – 110 032.

2. The counsel for the petitioner / tenant has only argued that the petitioner / tenant has been in occupation of the property since over sixty years and is earning his livelihood therefrom and has no other place and thus should not be evicted.

3. Those are not the parameters on which the Revision Petition is to be considered. Merely because the petitioner may have been a tenant for over sixty years is not to deprive the landlord, if has made out a ground for eviction stipulated in the proviso to sub Section (1) of Section 14 of the Act, from the premises.

4. The paper book has been perused.
5. As far as the aspect of ownership of the respondent of the premises in the tenancy of the petitioner and the relationship of landlord and tenant is concerned, the respondent in the petition for eviction claimed to have become owner of the shop in the tenancy of the petitioner on the basis of a Sale Deed executed with respect to the shop by K.B. Sharma in favour of the respondent / landlady. The petitioner / tenant in his leave to defend application though admits that he was inducted as a tenant in the shop by the said K.B. Sharma but pleads that since none had come to receive rent from him, he has become the owner by adverse possession. However at another place the petitioner / tenant has pleaded that the respondent purchased the shop only with the motive of filing a petition for eviction immediately on expiry of five years of the said purchase.
6. Needless to state that on the plea of adverse possession, no case of grant of leave to defend is made out. It is the settled principle in law that once a person has entered into possession of the property as a tenant, he cannot, even if does not pay the rent to any person, set-up an adverse title to the landlord without vacating the premises and delivering possession thereof. In the present case the petitioner / tenant admits having been inducted into the premises as a tenant and also admits sale, by the landlord who had inducted him in the premises as tenant, to the respondent and it has thus been correctly held that the pleas of the petitioner / tenant qua ownership and relationship of landlord and tenant do not disclose any ground which would disentitle the respondent / landlady from an order of eviction under Section 14(1)(e) of the Act, even if the matter was to be put

to trial.

7. The respondent / landlady has claimed requirement of the premises for the purposes of business of her husband as a property broker, pleading that no other properties are available.

8. The petitioner / tenant in the leave to defend application has listed as many as seven properties qua which it is stated that the said properties belong to the respondent / landlady and the same can be proved from the “evidence of the neighbours living in nearby locality”. The respondent in the reply to the leave to defend application, with respect to each of the said properties given the particulars of the owner thereof and denied any right / title in any of the said properties.

9. The petitioner / tenant as aforesaid, instead of placing anything before the learned Additional Rent Controller to show that the respondent / landlady had any title thereto, merely seeks to prove the ownership by the evidence of the neighbours and which can be no evidence on the aspect of title.

10. A tenant, merely by setting out list of properties and stating the same to be owned by the landlord, cannot compel grant of leave to defendant. If leave to defend were to be granted on such pleas, I fail to see as to in which cases leave to defend would be denied, inasmuch as each tenant with the astute drafting skills of his Advocate would be able to raise the pleas, whether there is any basis thereof or not.

11. The learned Additional Rent Controller has thus rightly held that the plea of the petitioner / tenant qua the other properties owned by the respondent also was not such which is required to be put to trial.

12. Else, it is not the plea of the petitioner / tenant that the husband of the respondent / landlady is not in the business of the property brokerage; rather, the petitioner / tenant in the leave to defend application has admitted the same also, by averring that it is the business of the husband of the respondent / landlady to purchase properties for investment purposes and to evict the tenants therefrom.

13. No error requiring interference in exercise of powers under Section 25B(8) of the Act is thus found in the impugned order.

14. There is no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 09, 2017
‘pp’..