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

+ **RC.REV. 471/2017**

MANJU

..... Petitioner

Through: Mr. Pradeep Kumar Arya, Adv.

Versus

MELA RAM

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.10.2017

CM No.37720/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

RC.REV. 471/2017 & CM No.37719/2017 (for stay)

3. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 17th July, 2017 in ARC No.25690/2016 of the Court of Additional Rent Controller (ARC), West District, Tis Hazari Courts, Delhi] of dismissal of the application filed by the petitioner for leave to defend the petition for eviction under Section 14(1)(e) of the Act and the consequent order of eviction of the petitioner from the First and Second Floors of property No.A-5, Madipur, J.J. Colony, New Delhi.

4. The need to elaborate the other details is not felt inasmuch as the petitioner sought leave to defend only on the ground i) that the petitioner was not the owner of the property; ii) that there was no relationship of landlord and tenant between the parties; iii) that the petitioner had never paid rent to the respondent; and, iv) that the property belongs to one Lala

Ram who has died and the petitioner is in occupation of the First and Second Floors of the property as licensee under the wife of Lala Ram.

5. The respondent is admittedly in occupation of the Ground Floor of the property.

6. To explain the possession of the respondent, it was pleaded in the leave to defend application that the son of the respondent was a tenant under Lala Ram with respect to the Ground Floor.

7. Else, the members of the family of the respondent and the requirement was not controverted.

8. Naturally, that is the only argument of the counsel for the petitioner before this Court also. In addition, it is stated that Lala Ram himself was a licensee, from the Municipal Corporation of Delhi (MCD), of the land underneath the property and the licence in favour of Lala Ram did not entitle Lala Ram to sell the property. It is argued that the documents filed by the respondent before the ARC, of sale of property by the wife of Lala Ram to Kishori Lal and by Kishori Lal in favour of the respondent, are contrary to the terms of licence granted by MCD and are of no avail.

9. The aforesaid arguments of the counsel for the petitioner do not make the order of ARC impugned in this petition, not in accordance with law within the meaning of Section 25B(8) of the Act.

10. It was held in *Shanti Sharma Vs. Ved Prabha* (1987) 4 SCC 193 that the requirement in Section 14(1)(e) of the Act, of ownership, is not of absolute ownership and only of a title better than that of tenant. The same view has been reiterated by the Supreme Court in *Swadesh Ranjan Sinha Vs. Haradeb Banerjee* (1991) 4 SCC 572 and in *Sheela Vs. Firm Prahlad Rai Prem Prakash* (2002) 3 SCC 375.

11. It is also settled position in law that it is not open to the tenant to challenge the deficiencies in title of the landlord. This Court in ***Ramesh Chand Vs. Uganti Devi*** (2009) 157 DLT 450 held that the plea of imperfectness of title of the premises cannot stand in the way of an eviction petition under Section 14(1)(e) of the Act. It is for this reason only that in ***Shanti Sharma*** supra, notwithstanding cancellation of lease of land underneath the premises by the Government of India, it was held that the petition for eviction under Section 14(1)(e) could be maintained. It is on same logic that tenant is not permitted to challenge Will or family settlement under which petition for eviction under Section 14(1)(e) of the Act is filed.

12. I have enquired from the counsel for the petitioner as to to whom the petitioner is paying rent / licence fee and what is the proof thereof.

13. It is stated that licence fee has been paid to wife of Lala Ram till 2008 and there is no proof thereof.

14. I have further enquired from the counsel for the petitioner, whether the petitioner has informed the wife of Lala Ram that the respondent herein is claiming ownership of the property belonging to her.

15. The answer is in the negative.

16. Had there been any merit in the plea of the petitioner, the petitioner as a normal human conduct would have immediately approached the wife of Lala Ram and informed her of title adverse to her being set up by the respondent. The factum of the petitioner having not done so is clinching inference of the petitioner being in the know that wife of Lala Ram has no right or interest left in the property.

17. As far as the contention of the counsel for the petitioner, of transfer by Lala Ram being contrary to the terms on which MCD had granted licence to Lala Ram is concerned, that is again not the concern of the petitioner who is merely a tenant in the property and it is for the MCD to, if entitled to, to take appropriate action.

18. There is no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 27, 2017

‘gsr’..