

\$~26

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

+ RC.REV. 458/2017 & CM No.36685/2017 (for stay)

ANIL KUMAR

..... Petitioner

Through: Mr. Harsh Kumar, Adv.

Versus

TULSI DASS

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

13.10.2017

1. This Rent Control Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 impugns the order [dated 7th July, 2017 in E No.233/2017 (U. ID NO.269/2017) of the Court of Pilot Court (Central District), Tis Hazari Courts, Delhi] of dismissal of the application filed by the petitioner for leave to defend the petition under Section 14(1)(e) of the Act filed by the respondent and the consequent order of eviction of the petitioner from a shop on the ground floor of property No.35, Lal Katra, Subzi Mandi, Near Robin Cinema, Delhi in tenancy of the petitioner since 1994 at a rent of Rs.500/- per month.

2. The counsel for the petitioner has been heard and the copies of the Trial Court record filed along with this petition perused.

3. The counsel for the petitioner, on enquiry, states that the petitioner does not dispute that the respondent is the owner of the shop with respect to which order of eviction has been passed and that there was /is a relationship of landlord and tenant between the parties.

4. The respondent pleaded requirement of the shop in the tenancy of the petitioner, stating that the son of the respondent namely Manish aged about 34 years is unemployed and not settled and his marriage has also not been held for the said reason; that the respondent wants to settle his son by opening a business of selling purse raw material, accessories and repairs in the said shop to earn his livelihood.

5. The only defence in the application for leave to defend was of the respondent and his son carrying on business from shop No.5952, Factory Road, Sikligran, near Shiv Shakti Mandir, Singhara Chowk, Nabi Karim, Delhi.

6. The respondent, in reply to the application for leave to defend, controverted that his son was doing any business from his shop No.5952, Factory Road, Singhara Chowk, Nabi Karim, Delhi.

7. Though the petitioner before the Additional Rent Controller did not produce any document to show that the business of shop No.5952, Factory Road, Singhara Chowk, Nabi Karim, Delhi was of the son of the respondent but has for the first time along with this petition at page 168 of the paper book filed an electricity bill of the said shop in the name of the respondent.

8. The aforesaid electricity bill also does not prove that the business being carried on from that shop is not of the respondent but of the son of the respondent.

9. This, besides the fact, that no new documents can be filed for the first time in a petition under Section 25B(8) of the Act.

10. The counsel for the petitioner then states that he has before the Trial Court also filed photographs of the son of the respondent standing in front of

the shop No.5952 aforesaid.

11. As aforesaid, the respondent has admitted shop No.5952 to be his own. The requirement pleaded in the petition for eviction was to settle the son and till the son of the respondent has no premises to carry on his own business, the mere fact that the son of the respondent visits the shop of his father would not negate the requirement of the respondent to settle his son.

12. There is thus no merit in the petition. The order of the Additional Rent Controller refusing leave to defend to the petitioner and passing an order of eviction of the petitioner cannot be said to be not in accordance with law.

13. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

OCTOBER 13, 2017
'bs'..