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

***Decided on :- 5<sup>th</sup> April, 2018***

+ CM (M) 656/2016

ABDUL REHMAN & ANR.

..... Petitioners

Through: Ms. Shalini Kapoor, Ms. Ruhini  
Dey & Mr. Dikshant Khanna,  
Advs.

versus

MOHD. ASHQEEN & ORS

..... Respondents

Through: Mr. Deepak Vashishta, Mr. S.P.  
Yadav & Mr. Mahesh Saroj,  
Advs. for R-1 to 4 with R-1 and  
2 in person.

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. The petitioners had instituted a case (E-241/2014) for eviction under Section 14 (1) (e) of Delhi Rent Control Act, 1958 against the sixth respondent on 21.10.2014 in respect of property described as 2561, Baradari Sher Afgan, Ballimaran, Delhi -110006 as specifically shown in the site plan (page 41 of the paper book) attached to the said petition. The eviction case resulted in judgment dated 30.03.2015 being passed by the Additional Rent Controller taking note of the fact that the sixth respondent had failed to come with the application for leave to contest within the statutory period after his service by special summons under Section 25 B on 19.12.2014 and consequently an order of eviction being granted in favour of the petitioners.

2. The first to fifth respondents submitted an objection petition before the Additional Rent Controller on 02.11.2015 primarily contending that they are owners in possession of the subject property and that the eviction order had been suffered by the sixth respondent (judgment debtor) in collusion with the petitioners (the decree holder).

3. It may be mentioned at this stage itself that the first to fifth respondents (the objectors) are also the successors-in-interest of Mohd. Yahya, they being related to judgment debtor, who is son of late Mohd. Yahya who concededly was the tenant initially inducted in the subject premises by the erstwhile owner.

4. The Additional Rent Controller dismissed the objection petition by her detailed order dated 10.11.2015 and thereafter proceeded to issue warrant of possession against the judgment debtor and in favour of the decree holder. The dismissal of the objections was challenged before the Rent Control Tribunal in appeal (RCT 114/2015) which was allowed by judgment dated 26.02.2016. In terms of the said order the objection petition stood remanded to the Additional Rent Controller for fresh decision after opportunity is granted to the parties to prove their respective case.

5. The petition at hand challenges the aforesaid decision of the Rent Control Tribunal, the prime contention urged being that the claim of the objectors as to the right, title and interest in the property is not founded on any credible material.

6. Having heard both sides at length and having gone through the record with the assistance of the counsel for the parties, this Court finds merit in the grievance of the petitioners. The learned Additional Rent Controller had taken a correct and appropriate view by her order dated 10.11.2015 recording there being no substance in the claim of the objectors to the ownership of the subject property.

7. The fact that Mohd. Yahya under whom the objectors and judgment debtor claim was inducted as a tenant by the erstwhile owner is not in dispute. The decree holders had brought the case for eviction against the judgment debtor, *inter alia*, on the strength of their title to the subject property acquired through Sale Deed dated 19.05.2003 for consideration, it being duly registered. There are documents reflecting that after purchase of the property, for consideration, by registered sale deed, at their instance, the municipal corporation has also mutated it in their name, they not only paying the property taxes in its respect but also having several documents confirming their connection thereto.

8. It does appear that the objectors also have in their possession certain documents indicating their possession of the property for certain period. But then, it is an admitted case that they are successors-in-interest of Mohd. Yahya, who was inducted as tenant in this property long back (in or around 1963). The claim to ownership of the objectors is based on a document purported to have been executed on 04.07.1989 on stamp paper of Rs.10, and a copy of the said document (running into two sheets), recorded in Urdu, has been

submitted (Annexure 7), its English translation also having been filed (pages 88-89 of the paper book). A bare perusal of the said document would indicate that one Abdul Yakoom, son of Shri Abdul Karim Sahib, had purportedly agreed to sell a house with land admeasuring about 45 square yards and roof with tin-shed built thereupon, it bearing municipal number 2561, Gali Haji Quamuddin, Baradari, Sher Afgan Khan Bazar, Balimaran, Delhi -110006 for total consideration of Rs.40,000/- to Mohd. Yamin, son of late Mohd. Sultan, the intended purchaser having paid to him Rs.10,000/- as earnest money, it having been agreed that the sale deed would be executed within a period of ninety days, and in the case the vendee failed to get the sale deed prepared within such period, the earnest money would stand forfeited. The document is styled as “*Receipt Sale Deed*”.

9. The learned Additional Rent Controller found the above document *ex-facie* not credible so as to accept the request of the objectors to put their petition on trial. This court agrees with the said conclusion for the simple reason the document in question does not even purport to transfer any right, title and interest in the property in favour of Mohd. Yahya, the name of the intended vendee reflected therein being Mohd. Yamin, son of Mohd. Sultan. Even otherwise, the document is only a receipt of payment of Rs.10,000/- by the person claiming to be the owner of the property it, at the most, amounting to an agreement to sell. It was conceded at the bar that no sale deed was ever executed in the wake of such document, leave alone any sale deed which had been registered. Further, it is admitted

that no payment of the balance amount of money shown as consideration in the said document was either tendered or paid at any stage. In these circumstances, even if the objectors are able to prove the execution of the said document dated 04.07.1989, it would not prove that Mohd. Yahya under whom they claim, had acquired any right, title and interest in the subject property.

10. In the above facts and circumstances, this Court finds no good reason why the objection petition pressed under Section 25 of Delhi Rent Control Act, 1958 should be put to a full dressed inquiry. Neither the document on the basis of which the claim in the objection petition is founded itself is admissible nor can it have the effect of conferring any title. No purpose would be served by going through the exercise of recording evidence on such material. The objection petition appears to be nothing but a device to delay the execution and does not deserve to be entertained [*K.L. Diwan vs. Mohan Malhotra 2009 (158) DLT 442*].

11. The petition is, thus, allowed. The order dated 26.02.2016 of the Rent Control Tribunal is set aside. The order dated 30.03.2015 of the Additional Rent Controller is restored. The objection petition of the first to fifth respondents stands dismissed with costs of Rs.50,000/- and the stay against enforcement of the decree is vacated.

**R.K.GAUBA, J.**

**APRIL 05, 2018**

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