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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 29th January, 2018

+ RC.REV. 386/2016 & CM No. 28686/2016 (stay)

ANIL BOLE & ANR.

..... Petitioners

Through: Mr. Sandep Kumar, Advocate.

versus

SHRI BANARSIDAS CHANDIWALA SEWA SMARAK
TRUST SOCIETY

..... Respondent

Through: Mr. Rakesh Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The respondent trust had instituted a case for eviction (E-560/13) against the petitioners and two others in respect of premises described as three rooms, *tin shed*, kitchen, latrine, bathroom and WC on the first floor and two rooms, open terrace, one space and one store in stairs on the second floor of flat No.1027/16/2, Paiwalan, Chawri Bazar near Jama Masjid, Delhi-110006 as shown more elaborately in the site plan in red colour annexed to the eviction petition, invoking ground of *bona fide* need under Section 14 (1) (e) of the Delhi Rent Control Act, 1958. The petitioners, concededly tenants in the subject premises, claiming to have been inducted in such capacity by late Shyam Kishan, filed an application seeking leave to contest in terms of Section 25-B of the Delhi Rent Control Act, 1958. The rent

controller considered the said application but found no substance and, therefore, by order dated 08.04.2016 declined the request and consequently passed an order of eviction which is impugned by the revision petition at hand.

2. Having heard the learned counsel on both sides and having gone through the record, this court finds no merit in the revision petition. The reasons may be set out hereinafter.

3. It is not in dispute that Shyam Kishan was the erstwhile owner of the subject property. The petitioners are also not in a position to raise a dispute about the fact that the said Shyam Kishan by way of Deed of Settlement dated 23.09.1982 had passed on the right, title and interest of the subject property in favour of the respondent trust. Noticeably, the petitioners in their leave to defend application themselves described the subject property as a “*trust property*” while no issue was sought to be agitated about the title of the respondent trust *qua* the subject property, it was only the authorization of the secretary to institute the eviction case which was raised as a ground. The learned rent controller has found no deficiency in this regard nor any such deficiency has been shown or demonstrated before this court and, therefore, the said ground calls for no trial.

4. It is not disputed – rather it is properly demonstrated by requisite material on record – that the respondent trust runs medical facilities providing services to the society at large. The trust runs a number of dispensaries, hospital, welfare centre, clinics, *etc.*, the constituency catered to being poor sections of society. This is borne

out from the memorandum of association, copy of which was shown and to the genuineness of which there is no contest. The plea that the claim is sham, bogus or a façade is just in the air with nothing placed on record to substantiate.

5. The petitioners raised the plea before the rent controller that the trust owns and is in possession of a number of properties in various portions in which different tenants have been accommodated for residential or commercial purposes. Even if the court presumes this to be a fact, it does not assist the petitioners in any manner for resisting the case for eviction on the ground of *bona fide* need, in absence of contention that another tenant was inducted in a vacant portion during the period immediately before the filing of the petition for eviction.

6. The plea that the purpose of expansion of charitable hospital facilities, which is the ground on which eviction is sought, can be served by utilizing spaces available in the building is as vague as it could be. The petitioners were unable to point out any vacant space.

7. The arguments raised that the locality where the premises is situate is congested and suffers from noise pollution on which account no patient would get effective treatment is wholly devoid of substance. Medical facilities, particularly by charitable institutions, in congested areas, only augment and complement the medical services provided by the State or municipal agencies. A congested area does not mean the local inhabitants must go out to far flung areas for such purposes.

8. In the above facts and circumstances, the impugned order is found not to be suffering from any error or infirmity. The learned rent controller has appreciated the facts and circumstances in proper perspective and has taken a correct view which calls for no interference.

9. The petition and the application filed therewith are dismissed.

JANUARY 29, 2018

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R.K.GAUBA, J.



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