

\$~11

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 13th April, 2018

+ RC.REV. 589/2012

PRABHU DAYAL

..... Petitioner

Through: Mr. R.K. Ahuja, Advocate with
Mr. D.S. Vohra, Adv.

versus

LEKH RAJ

..... Respondent

Through: Mr. R.K. Shukla, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The respondent had filed a case (E. No.113/2011) for eviction against the petitioner on 14.09.2010 on the ground of *bona fide* need under Section 14 (1) (e) of the Delhi Rent Control Act, 1958 in respect of premises described as shop forming part of property bearing No.618/5-F, Near Ravidas Mandir, Vishwas Nagar, Shahdara, Delhi, as shown in colour red in the site plan (Ex.PW-1/A) submitted with the petition.

2. Having regard to the ground for eviction, additional rent controller (ARC) applied the procedure envisaged in Section 25-B of the Delhi Rent Control Act, 1958. The petitioner on being served with the said summons under Section 25-B of the Delhi Rent Control Act, 1958, moved an application seeking leave to contest, which was granted by order dated 06.08.2011. The case was thereafter put to trial,

it eventually resulting in eviction order being passed by judgment dated 06.09.2012 in favour of the respondent. It is the said order which is under challenge by the petition at hand.

3. The respondent had pleaded before the ARC that he is the owner of the property of which the tenanted portion forms a part, he having let out the said portion to the petitioner in March, 2002, the tenancy being oral at a rental of Rs.300/- per month for running a milk dairy, the petitioner having stopped such user, having kept the shop closed for the last four years, not even paying rent after the last payment for the month of May, 2005. The respondent claims that he is a cobbler by profession and that he has been earning his livelihood by working for gain in that capacity from a pavement in the area of Vishwas Nagar, Shahdara, Delhi. He sought eviction on the ground that he is a person skilled in his profession and wants to establish himself in a proper premises and, thus, requires the said shop for his own needs.

4. The petitioner by his pleadings in the written statement denied any relationship of landlord and tenant between the parties, also disputing the claim of the respondent about he being the owner of the subject property. On the contrary, he claimed ownership of the property vesting in him. The claim of the respondent of *bona fide* need for his own purposes was also resisted.

5. Both sides led evidence including the respondent appearing as his own witness (PW-1), also examining other witnesses primarily from the neighbourhood, they including Harkhayal Singh (PW-2),

Veer Singh (PW-4) and Prabhu (PW-5), and in addition, an official witness Satinder Kumar Bhatti (PW-3), an employee of the house tax department of Municipal Corporation of Delhi. The petitioner, on the other hand, examined himself as RW1.

6. The additional rent controller considered the evidence led by both sides. He found that the evidence led by the respondent was credible and, thus, rejected the contentions of the petitioner about he being the owner of the subject property. The claim of the respondent that the petitioner was inducted as a tenant in the subject premises was accepted. The ARC also found the claim of the respondent for eviction on the ground of *bona fide* need to be just and proper and consequently granted the order of eviction.

7. Having heard both sides and having perused the record with the assistance of the respective counsel, this court finds no error or infirmity in the impugned judgment of the additional rent controller.

8. The respondent, by his evidence, has clearly brought home his claim to the ownership of the property of which the tenanted premises forms a part. His testimony as PW-1 on the strength of his affidavit (Ex.PW-1/1) is corroborated by the evidence of PW-2, PW-4 and PW-5. As part of the evidence adduced, the respondent had also proved that the property in question is assessed to house tax in his name, house tax receipt (Ex.PW-3/A) having been proved by the official witness summoned from the concerned department. The respondent had also proved that he is a registered voter of the area from the address of the said property (Ex.PW-1/E), he also holding a ration

card (Ex.PW-1/C) in its respect. There is ample evidence to show that he and his brother have been residing in the said property since 1970s.

9. In contrast, the petitioner has sought to prove his title to the subject property merely by placing reliance on a license (Ex.RW-1/1) issued by Municipal Corporation of Delhi statedly in his favour in the name of the firm M/s. F.S. Kharkhodi Welding Works. As noted by the ARC, the said municipal license pertains to another property (bearing municipal no.618/5-B), there being no clear connection between the document and the property in question. Even if the said document was to be believed, all that it would show is that the petitioner had been running some business in name and style of M/s F.S. Kharkhodi Welding Works from the tenanted portion. This would be hardly a material on which claim to the title to the property could be inferred.

10. It does appear that the respondent has not come up with any sale deed or conveyance deed so as to strictly prove his claim as to the ownership. He has also not executed any rent document nor is in a position to produce any rent receipt. But then, evidence of the neighbor about the relationship of landlord and tenant between the parties provides sufficient corroboration to the word of the respondent. In these circumstances, when sufficient evidence is available to infer the relationship of landlord and tenant between the parties, the case of the respondent about he being the owner cannot be thrown out only because he is unable to come with clear documents evidencing his ownership. In proceedings of this nature, the landlord only needs to

prove his title better than of the opposite party. [See: *Shanti Sharma vs. Ved Prabha*, (1987) 4 SCC 193].

11. In above view, the conclusions reached by the additional rent controller on the issue of ownership and the relationship of landlord and tenant cannot be faulted.

12. No other point was urged at the hearing on the revision petition.

13. The petition is thus, found to be devoid of substance. It is dismissed.

R.K.GAUBA, J.

APRIL 13, 2018

vk