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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 434/2018 & CAV 821/2018, CM APPL. 36718-36719/2018
AMAR ARORA @ DIMPLE ARORA Petitioner
Through: Mr. GK Sharma, Advocate

versus

SATISH CHANDER VERMA Respondent
Through: Mr. C.S. Bhandari, Advocate. for
respondent/caveator.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **10.09.2018**

CAV 821/2018 stands discharged.

Submissions have been made on behalf of either side.

Vide the present petition, the petitioner assails the impugned order dated 04.04.2018 of the ARC (Shahdara), KKD in ARC No.1207/2016 vide which the application filed by the petitioner herein as the respondent to the said Eviction Petition seeking leave to defend was rejected and the respondent was directed to be evicted from the tenanted premises comprising of a shop i.e. shop no.1 situated at property bearing no.F-2/15, Krishna Nagar, Delhi on the ground of bona fide commercial requirement with the benefit of Section 14 (7) of the DRC Act, 1958 (as amended) having been granted to the tenant i.e. the petitioner of the present petition.

It has been contended on behalf of the petitioner herein that the respondent did not have any bona fide need of the tenanted premises

and that what was created through the Eviction Petition i.e. ARC No.1207/2016 was only a projected need and that in fact, the brother of the respondent has also filed an eviction petition against another tenant *inter alia* urging to the effect that he needed the premises in question also for his own bona fide requirement. *Inter alia* it has been submitted on behalf of the petitioner placing reliance on photographs placed on pages 77 & 78 annexed to the present petition as Annexure-P to submit that there are three shops in question in the premises as F-2/15, Krishna Nagar, Delhi which is the tenanted shop no.1 in which the petitioner herein is running his business of a chemist. It is submitted by the petitioner herein that the adjacent shop in which the brother of the landlord herein i.e. the respondent to the present petition runs his toy shop, a shop adjacent thereto which is shut of which eviction has been obtained by the brother of the landlord of the petitioner herein and that there is no demarcation and de-alienation of the properties between the landlord of the petitioner and the brother of the respondent to the present petition.

It is further submitted on behalf of the petitioner that varying grounds had been put forth through the Eviction Petition itself inasmuch as at one stage, the landlord has sought to urge that he being a qualified Chartered Accountant needs the tenanted premises to run a consultancy services whereas in the very same breath in para-8 of the Eviction Petition that has been filed, he seeks to urge that he needs the tenanted premises to use the same as baithak/sitting room for running the said consultancy services.

On behalf of the respondent it has been submitted that the contentions now sought to be raised in relation to the shop which is lying closed which belongs to the brother of the landlord of the petitioner and in relation to the aspects of de-alienation of the properties between the brother of the landlord and the landlord, are factors which have not been contended on behalf of the tenant during the course of the proceedings at the time of seeking leave to defend and cannot be raised now. Reliance is *inter alia* placed on behalf of the respondent through the present petition on the verdict of this Court in ***Bal Krishan Khanna Vs. Smt. Ravi Kanta Madhok*** 2010 VI AD (DELHI) 986, in ***Bantam Enterprises Pvt. Ltd. Vs. Jaspal Singh Kapoor*** 189 (2012) DELHI LAW TIMES 89, in ***Gita Gupta Vs. Kailash Chand Dhingra*** 199 (2013) DELHI LAW TIMES 321 to contend that the said contentions now raised to be urged by the petitioner herein cannot be allowed to be raised inasmuch as Section 25 (B) of the DRC Act, 1958 as amended provides for a complete code itself in relation to the petitions filed by the landlords on the ground of bona fide requirements.

On a consideration of the submissions made on behalf of either side, taking into account the factum that apparently the relationship of a landlord and a tenant between the parties of the premises in suit is not disputed, the factum that the petitioner is undoubtedly the owner of the tenanted shop also despite the factum that there may be an internal arrangement between himself and his brother, in relation to which the tenant can have no concern coupled with the factum that

there is not an iota of an averment in the application filed by the petitioner herein as the respondent to the Eviction Petition seeking to urge that there existed any alternative additional accommodation available with the landlord, there is nothing on the record to indicate that the claim of the landlord in ARC 1207/2016 when he has stated that he needs the tenanted premises to run his consultancy services he being a Chartered Accountant and having since retired with earnings from the interest received on his Fixed Deposits being meagre in view of the present prevalent rate of interest on Fixed Deposits, there being nothing on the record to indicate that the claim of the landlord was not bona fide, there is no triable issue brought forth by the petitioner.

The petition RC.Rev.434/2018 and the accompanying applications are dismissed.

ANU MALHOTRA, J

SEPTEMBER 10, 2018

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