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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 14th March, 2018

+ RC.REV. 2/2015

SAT PARKASH & ANR Petitioners

Through: Mr. Manish Kumar with Mr. Piyush
Kaushik, Advocates.

versus

RAVINDER KUMAR Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The revision petition at hand was preferred to question the correctness, legality and propriety of judgment dated 04.12.2014 passed by the Additional Rent Controller on the file of eviction case (E No.14/12) which was instituted by the petitioners on 15.09.2012 seeking eviction of the respondent from the tenanted premises described as shop no.36, forming part of property No.17-18, Damodar Park, Dilshad Garden, G.T. Road, Shahdara, Delhi-110095, under Section 14(1)(e) of Delhi Rent Control Act, 1958. The eviction petition was put to trial, presumably after grant of leave to contest being granted to the respondent and, in the course of such trial, the first petitioner Sat Prakash having been examined as the solitary witness (PW-

1) for the petitioners and the respondent appearing as a witness (RW-1) for himself.

2. The Additional Rent Controller, by judgment dated 04.12.2014, has accepted the case of the petitioners as to the existence of relationship of landlord and tenant between the parties, also holding the petitioners to be the owner of the subject property. He, however, was not satisfied with the proof adduced as to the claim of the petitioners for *bona fide* need of the subject premises and also as to non-availability of suitable alternative accommodation for such purposes.

3. The petitioners have relied upon a legal notice sent on 24.05.2012 (Ex.RW-1/12) by the respondent contending that the premises i.e. the tenanted shop was in dilapidated condition requiring repairs in which regard the landlord, i.e. the petitioners had shown utter neglect. The respondent while contesting the case for eviction on the ground of *bona fide* need had pleaded that the landlord had other similarly placed shops available to them in the same property of which the tenanted portion forms a part, which were lying vacant and available for the running of the business for which his eviction was sought.

4. The petitioners conceded at the trial that three shops in the same property are vacant and available but then sought to explain they were also in dilapidated condition also stated that they were not fit for commercial use. The witness (PW-1) deposing on behalf of the petitioners also admitted during his statement that even the tenanted shop is not in a condition fit for

immediate use, the submission being that the landlords intended to carry out the repairs before the said premises is put to such use.

5. During the course of hearing, the counsel for the petitioners further pointed out the pleadings in para 18 (a)(iv) in the eviction petition wherein the petitioners had submitted that they required the suit premises *bona fide* “for repairing/rebuilding” inasmuch as it had become dilapidated.

6. The learned Additional Rent Controller has recorded dissatisfaction with the proof submitted by the petitioners, *inter alia*, for the reason that they had not strictly proved the factum that the company APS Metals Private Limited was duly incorporated or that the petitioners are Directors in such company or further that such company for whose business the eviction is sought is presently doing its business from a rented premises. The Additional Rent Controller has also found the evidence of the petitioners to be not credible with regard to the intendment to have the building reconstructed for use and such ground being justification to seek an order of eviction under Section 14(1)(e) of Delhi Rent Control Act, 1958.

7. After some hearing, the learned counsel for the petitioners fairly conceded that the above nature of the grounds make out a case more under clauses (f) and (g) of Section 14(1) of Delhi Rent Control Act, 1958 for which purposes neither the pleadings nor the proof adduced are sufficient. He, thus, requested that given the admitted position of both sides that the

subject premises, as indeed the other portions of the same building are in dilapidated condition, unsafe for human habitation, the impugned order may be set aside and the matter remanded to the Additional Rent Controller so that the petitioners may incorporate necessary pleadings including prayer for eviction on the ground under Section 14(1)(f) or (g) of Delhi Rent Control Act, 1958 and adduce further evidence in such light.

8. In the given facts and circumstances, the request of the petitioners is found to be just and proper. Thus, the judgment of the Additional Rent Controller is set aside. The matter is remanded to the Additional Rent Controller for further proceedings in above light. The petitioner will have the liberty to move appropriate amendment application before the case proceeds further. The parties are directed to appear before the Additional Rent Controller on 11.04.2018.

9. The petition stands disposed of in above terms.

R.K.GAUBA, J.

MARCH 14, 2018

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