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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 16th March, 2018

+ RC REV. 600/2016

DESH RAJ SHARMA Petitioner

Through: Mr. Rajesh Pathak, Adv.

versus

MOHD. SABIR (SINCE DECEASED THRU. LRS) & ORS

..... Respondents

Through: Mr. Abdul Sattar, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petition at hand was filed challenging the order dated 09.06.2016 of the Additional Rent Controller passed on the file of the case (E-92/2013) instituted by the respondents for eviction under Section 14 (1) (e) of Delhi Rent Control Act, 1958 in respect of the premises described as shop forming part of property No. 254, Hauz Rani, Malviya Nagar, New Delhi as specifically shown in colour red in the site plan attached to the said eviction petition, such premises admittedly being in the tenancy of the petitioner under the respondents.

2. Given the nature of the ground on which eviction was sought, the procedure contained in Section 25 B of Delhi Rent Control Act,

1958 was invoked and in answer to the said summons served on him, the petitioner submitted an application seeking leave to contest. The grounds on which such leave was sought, however, did not impress the Additional Rent Controller who consequently declined the application and in the result granted order of eviction by the impugned order dated 09.06.2016 which is assailed by the petition at hand.

3. When the petition came up for the first time before the Court on 19.12.2016, the counsel for the petitioner had submitted that he was ready and willing to compromise the matter with the respondent in case sufficient time was given to vacate the property. Notice was issued to the respondents limited on the said submission of the petitioner. The matter has remained pending, the parties having been referred to Delhi High Court Mediation and Conciliation Centre but with no fruitful result. It was submitted on 21.02.2018 that the petitioner wanted five years' time to be granted which was not acceptable to the respondents, it being unreasonable, particularly in the face of the fact that the petitioner before approaching this Court in revisional jurisdiction against the order of eviction on 09.06.2016 had already availed of the statutory protection of six months under Section 14 (7) of Delhi Rent Control Act, 1958.

4. The matter has come up against the above backdrop for final hearing. The counsel for the petitioner initially insisted that he may be granted five years' time to vacate. The request, according to the respondents being most unreasonable, in the given facts and circumstances, however, had to be declined since the Court is not

inclined to impose any such conditions on the respondents. Faced with this, the counsel for the petitioner submitted he may be allowed to argue on merits on the revision petition as, in his contention, the impugned order is bad in law. He relied on order dated 17.01.2000 in Civil Appeal No. 412/2000 titled as *Santosh Devi Soni vs. Chand*; and judgments reported as *Shanti Devi vs. Rajesh Kumar Jain & Anr.* (2015) 2 SCC 158 and *Rakesh Kumar vs. Pawan Khanna* 195 (2012) *Delhi Law Times* 341.

5. The submissions of both sides have been heard. Record perused.

6. In the opinion of this Court, the revision petition is devoid of substance. It is not disputed that the family of the respondents (landlords) is a large one including 23 children out of which 9 have come of age, they being keen to establish themselves in some business to earn their livelihood. The contention of the respondents that fourth respondent is running a business from rented premises in Saidullajab area of Delhi has not been disputed.

7. The contention of the petitioner is that another tenant named Har Bhagwan Das who was in occupation of an adjoining shop had vacated and such premises was available as the suitable alternative accommodation. The Additional Rent Controller has examined this issue in the light of material on record. He has observed that the adjoining shop vacated by the other tenant Har Bhagwan Das is a very small premises. The need of the respondents is to establish their nine adult sons in business. All of them cannot be accommodated in just

one small shop of that nature. This is why the respondents have explained that they intend joining the shop vacated by Har Bhagwan Das with the shop in the tenancy of the petitioner as it would then provide a suitable working space for the business of carpentry and furniture which is intended to be set up.

8. There is, thus, no merit in the application for leave to contest. The rulings cited by the petitioner are of no assistance. Each case has to be examined on its own peculiar facts and circumstances. It is not a case where sufficient alternative accommodation is available with the landlord.

9. Having heard the learned counsel for the petitioner, this Court finds no substance in any of the contentions urged in the application for leave to contest. The order passed by the Additional Rent Controller is found to be suffering from no error or infirmity. Thus, the petition at hand and the pending application are dismissed with cost of Rs.50,000/- (fifty thousand only).

R.K.GAUBA, J.

MARCH 16, 2018

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