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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 2nd May, 2018

+ R.C. REV. 539/2015

RANI SETHI

..... Petitioner

Through: Mr. Shiv Charan Garg & Mr.
Imran Khan, Advs.

versus

AMARJEET SINGH

..... Respondent

Through: Mr. S.N. Gupta & Mr.
Abhishek Vashisht, Advs.

+ R.C. REV. 540/2015

VIJAY KUMAR SETHI

..... Petitioner

Through: Mr. Shiv Charan Garg & Mr.
Imran Khan, Advs.

versus

AMARJEET SINGH

..... Respondent

Through: Mr. S.N. Gupta & Mr.
Abhishek Vashisht, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioners concededly are tenants in premises described as portions/shed room bearing no. A-8/4, A-8/3 respectively in property bearing no. A-8, Sardar Nagar, behind CC Colony, Rana Pratap Bagh, Delhi. On the eviction petitions (E-18/12 and E-17/12 respectively) instituted by the respondent seeking orders of eviction on the ground

under Section 14 (1) (e) of Delhi Rent Control Act, 1958, upon being served with the special summons under Section 25 B of Delhi Rent Control Act, 1958, these petitioners had moved applications seeking leave to contest. The said applications were rejected by the Rent Controller by similar orders passed on 15.04.2015, such result leading to eviction orders being granted to the respondent, the view taken by the Rent Controller having been assailed by these revision petitions.

2. Having heard the learned counsel on both sides at length and having gone through the record, this Court finds that the Rent Controller has fallen into error by declining leave to contest. The issues raised by the petitioners by their respective applications for leave to contest are triable and, thus, the eviction orders could not have been granted without respondent being called upon to prove his case by evidence. This needs elaboration.

3. As per the case set up in the eviction petitions filed by the respondent in respect of property bearing no. A-8, Sardar Nagar, near CC Colony, Rana Pratap Bagh, Delhi, it is a plot of land admeasuring 200 square yards which was originally owned by Shri Santokh Singh, father of the respondent who died on 10.06.2005. It is stated that prior to his death, the said Santokh Singh he had transferred the right, title and interest in the property in favour of his wife (Smt. Gurmej Kaur, mother of the respondent) by executing documents in the nature of general power of attorney, agreement to sell and Will. Smt. Gurmej Kaur died intestate on 28.11.2005. Admittedly, the title to the property was inherited by the respondent and his brother Sarabjeet Singh in equal shares. It is his claim that his brother had relinquished

his share in his favour by Relinquishment Deed dated 12.07.2011 and thereafter the property was mutated in his exclusive name by the municipal authority.

4. The site plan submitted with each of these eviction petitions would indicate that the plot of land is divided into four equal parts – rectangular in shape, each covered by a separate tin shed and stated to be in the tenancy of different persons including the two petitioners herein. The tenancies were admittedly created by Smt. Gurmej Kaur, the letting purpose being commercial.

5. It is the case of the respondent that the petitioners have made default in payment of rent, he reserving the right to take out appropriate proceedings on that count. But then, such contentions are inconsequential in the context of the ground of *bona fide* need under Section 14 (1) (e), Delhi Rent Control Act, 1958.

6. It is the case of the respondent that he with his family that includes his wife and a son (aged 24 years on the date eviction petitions were filed) are sharing residential accommodation in a rented premises bearing property no. D-23, Neelamber Apartments, Sainik Vihar, Rani Bagh, Delhi with the family of his brother Sarabjeet Singh. It is his case that the landlord of the said property is compelling him to vacate and hand over the tenanted premises and, thus, the tenanted portions are required *bona fide* by him. It was pleaded in the eviction petitions that he requires the tenanted premises vacated so that he may construct a house on the plot which is occupied by different tenants, the building to be developed on the plot to be

used for residence of self and for members of his family dependent upon him.

7. It needs to be noted that the letting purpose of all the four portions covered by tin sheds which were let out to different tenants including to the two petitioners herein, was concededly commercial. There is nothing yet brought on record to show as to whether the plot of land of which the tenanted portions form a part is meant for residential use or for commercial purposes. The respondent has claimed that he and his family are sharing residential accommodation with his brother in a property which has been taken on rent. Noticeably, it is not his case that the accommodation in the said rented property is not sufficient. In fact, the eviction petitions are conspicuously silent as to the extent of accommodation available in the said rented house. It is a vague plea that the landlord of the said rented house is compelling the respondent to vacate and hand over the possession thereof as there is not a shred of document filed in support of such plea.

8. There is substance in the contention of the petitioners that possibility cannot be ruled out that the pleadings of the respondents that he intends to demolish the existing structure and develop a residential house on the plot of land is a ruse to secure an order of eviction. Pertinent to note that the law envisages the possibility of the landlord requiring the premises *bona fide* for the purpose of building or re-building which works cannot be carried out without the premises being vacated. But, for such purposes, it is the obligation of the landlord to also show to the satisfaction of the Rent controller that the

proposed re-construction would not radically alter the purposes for which the premises were let out or that such alteration is in public interest and further, what is more important, that the plans and estimates of such re-construction have been properly prepared and that necessary financial resources for carrying out such re-construction are available with the landlord. These are the requirements of law as indicated in Section 14 (1) (g) read with Section 14 (8) of Delhi Rent Control Act, 1958. The respondent here has simply averred that after eviction of the petitioners he intends to demolish the existing structures and raise a residential building to fulfil the needs of self and family for residence. As mentioned above, he has not indicated the nature of permitted use of the property or permissibility for alteration of the purpose of its use from commercial to residential. His case that he *bona fide* requires the property for residential purposes cannot be accepted on its face value, particularly because he is silent on the issues with regard to the building plans in accordance with which construction is intended to be carried out or the estimates of expenditure likely to be incurred and further the availability of necessary resources.

9. In the above facts and circumstances, it is desirable that the respondent be called upon to substantiate his case by evidence at the trial.

10. The impugned order is, thus, set aside. The leave to contest is granted to the petitioners. Consequently, the eviction orders stand set aside. The proceedings before the rent controller are revived. The parties shall appear before the Rent Controller on 31st May, 2018.

Needless to add, the petitioners here as the respondents in these proceedings will be obliged to file written statements on the said date.

11. The petitions and the pending applications stand disposed of in above terms.

R.K.GAUBA, J.

MAY 02, 2018

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