

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **R.C.Rev. No. 588/2015 and CM Nos. 25663/2015 & 913/2016**

Judgment reserved on : 18.07.2018
Date of decision : December 29th, 2018

SUBHASH CHANDER RANA petitioner
Through: Mr. Virendra Singh, Advocate
versus

JITENDER VERMA Respondent
Through: Ms.Swati Rathi with Mr.Pawan
Kumar, Advocates

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

CM No. 25663/2015

1. Along with the petition is CM No. 25663/2015 vide which the petitioner has sought condonation of 78 days' delay in filing the petition, submitting to the effect that he had earlier handed over the certified copies of the impugned order which was dated 5.5.2015 which he applied on 23.5.2015 and the Revision Petition was to be filed in July, 2015 but the petitioner suffered from Hyper Tension and being a diabetic also suffered a minor heart attack and had to be treated and thus as his family members had been advised not to discuss anything with the petitioner which may result in further aggravating the situation, he could not contact his counsel. *Inter alia*, the petitioner submitted that on 1.9.2015 his son was badly beaten up by the neighbours and an FIR

was registered against them and due to this reason, he could not contact his counsel earlier and when he did ultimately contact his counsel in the first week of October, 2015, the counsel stated that the time for filing the petition had expired and thus the petitioner filed the present petition after engaging a new counsel.

2. In view of the affidavit that has been annexed with the application, in the interest of justice, it is considered appropriate to condone the 78 days' delay in filing the petition, which is thus condoned.

3. The application CM No.25336/2015 stands disposed of.

R.C.Rev..No. 588/2015 and CM No.913/2016

4. Vide the present petition, the petitioner assails the impugned order dated 5.5.2015 of the learned ARC(North), Rohini, in Eviction Petition No. 87/12, vide which the application filed by the petitioner herein, the tenant of shop No.1 in Property No. S-72, Mangol Puri, New Delhi as shown red in the site plan seeking leave to defend the petition under Section 14 (1)(e) of the Delhi Rent Control Act, 1958, (as amended), filed by the respondent herein/the landlord of the said tenanted premises on the ground of *bona fide* requirement,- was dismissed.

5. The undisputed facts brought forth on the record are that the respondent herein being the landlord of the tenanted premises purchased the property in suit on 22.3.2000 from its erstwhile owner, that the respondent herein is a goldsmith and carries on his own business from the shop adjacent to the suit shop of which he is the owner and

that he has filed the petition on the grounds of *bona fide* requirement seeking eviction of the petitioner herein from the tenanted shop in as much as the shop was very small and he claimed that he had difficulty in running his shop and that the respondent needed a separate place for labour work and for dealing with the customers both of which could not be done in the existing shop due to paucity of space and that he intended to remove the intervening wall between the two shops to make it a big shop to run his business properly and that he did not have reasonably suitable alternative accommodation from where he could run his business by providing separate space for labour and for dealing with customers and that he wanted the tenanted shop to upgrade his business because the size of his family had increased and his profession as a goldsmith was his only source of income.

The petitioner herein urged through his application seeking leave to defend that the need of the land lord was not *bonafide* but was artificial and *malafide*, and that the respondent, the landlord did not require any additional accommodation for doing any work; that the petitioner and the respondent, i.e., the landlord, were in the same business and that the landlord, i.e., the respondent thus intended the petitioner to be thrown out from the suit premises due to business rivalry.

Inter alia the tenant, i.e., the petitioner herein contended that the contention of the respondent herein, i.e., the landlord, that he required the tenanted premises for space was not tenable as in the locality where the tenanted premises was situated no work in which chemicals were required was permissible and even otherwise the respondent, i.e., the

petitioner could not make the work place in the said locality as the same would generate pollution.

6. *Inter alia*, the tenant, i.e., the petitioner herein contended that immediately after the purchase of the suit property, the respondent, i.e., the landlord, had filed the petition on the ground of non-payment of rent in which the petitioner, i.e., the tenant was granted the benefit of Section 15(1) of Delhi Rent Control Act, 1958 (as amended) and thereafter, the said petition filed on the ground of non-payment of rent was dismissed. The petitioner thus submitted that the landlord, i.e., the respondent herein is bent upon evicting the tenant, i.e., the petitioner herein.

7. *Inter alia* the respondent/the tenant contended that he had allowed the petitioner to use the basement premises in order to enable the latter, i.e., the petitioner to raise construction and in turn the respondent, i.e., the landlord allowed the respondent, i.e., the petitioner herein to do repair work in the tenanted premises and in January, 2011, according to the petitioner, the respondent, i.e., the landlord had not shown any intention of requirement of any additional space for the work of goldsmith. *Inter alia*, the petitioner submits that due to the construction raised by the respondent/i.e., the landlord, the tenanted shop also had been badly damaged and thereafter the petitioner, i.e., the tenant filed a petition under Section 45 of the Delhi Rent Control Act, 1958 (as amended) on 10.10.2012 which was pending adjudication and stated that the petition filed by the landlord was a counter blast to the petition filed by the petitioner, i.e., the tenant under Section 45 of the Delhi Rent Control Act. *Inter alia*, the petitioner, i.e., the tenant submitted that he uses the tenanted premises regularly and he had no

other commercial shop anywhere else. It is further submitted on behalf of the petitioner, i.e., the tenant that the respondent, i.e., the landlord had another shop in Mongolpuri which was lying vacant and that the landlord also had another area available to him in the suit property and that he had much more sufficient space in his accommodation. The petitioner further contended that the respondent, i.e., the landlord gets the labour work done on piece to piece basis from outside sources as the labour work was not permissible from the suit property. It has been submitted on behalf of the petitioner that the respondent, i.e., the landlord had even gone to the extent of spreading rumors about his leaving the shop shortly and thus the respondent, i.e., the landlord wanted to cut-short the competition of jewellery by throwing out the petitioner, i.e., the tenant from the tenanted premises.

8. The respondent/the landlord refuted all the said contentions raised by the tenant and reiterated that he wanted to expand his business because his family has increased and the shop was the only source of income and that the landlord intended to remove the intervening wall between the two shops to make it a big shop to run his business properly and also submitted that he did not have reasonably suitably alternative accommodation from where he could run his business by providing separate space for labour and for dealing with the customers as well.

9. The petitioner herein vide the application seeking leave to defend the petition filed by the landlord has been unable to bring forth any averment to show that the landlord has any other suitable accommodation available for expansion of his business of a goldsmith which he runs in the shop adjacent to the tenanted premises.

10. The reply to the leave to defend that the landlord, filed before the learned ARC categorically reflects that he has no intention to use any chemicals for the labour work which would all be manual. Apart from a bald averment that the site plan filed by the landlord with the tenanted premises is incorrect, there was no other site plan filed by the tenant in support of his contentions implicitly accepting thereby the contentions of the petitioner in relation to the description and dimensions of the tenanted premises.

11. Rather as rightly held by the learned ARC the petitioner, i.e., the tenant had submitted through his leave to defend application that the landlord gets his labour work done from elsewhere and therefore does not need the tenanted premises *bonafide*, in relation to which it is apparent as rightly held by the learned ARC that there was no necessity of the landlord continuing with the outside agencies for his labour work if sufficient space was made available to him.

12. Though the petitioner, i.e., the tenant has claimed that there is a suitable accommodation available at Mangolpuri which is lying vacant, which has been refuted by the landlord, there are no specific details of any reasonably suitable alternative accommodation being available with the landlord that have been put forth by the petitioner who at no stage has given any description, neither at the time of filing of leave to defend nor the present petition of any such reasonable accommodation and has rather in the present petition gone on to state that the landlord has another area available to him in the suit property and has more than sufficient space in his possession without specifying and stating which is that additional space available to the landlord.

13. Another contention, that was raised on behalf of the petitioner, i.e., the tenant was to the effect that soon after the purchase of the property, the landlord filed a petition on the ground of non-payment of rent against the petitioner herein which was dismissed and subsequently due to construction raised by the landlord and the repair works done in the tenanted property, which required further repair in view of the petitioner having raised constructions a petition under Section 45 of the Delhi Rent Control Act, 1958 (as amended) was filed by him i.e., the tenant and as a counter blast, the land lord had filed the petition also is to no avail in as much as the petition filed on the ground of non-payment of rent having been dismissed is not an embargo to the petitioner seeking eviction of the tenant on the ground of bona fide requirement specially when the landlord, i.e., the respondent to the present petition has claimed that he wanted to expand his business and required that space that is available in the tenanted shop for doing manual labour work and for dealing with the clients/customers.

14. It is well settled that the landlord is the best judge of his own needs and thus, in the facts and circumstances of the instant case, it is held that there is no infirmity whatsoever in the impugned order dated 5.5.2015. The R.C.Rev.No. 588/2015 and the accompanying application CM No. 913/2016 are hereby dismissed.

ANU MALHOTRA, J.

DECEMBER 29th, 2018/SV/mk