

\$~28

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment delivered on: 28.11.2019

+ RC.REV. 171/2019

RAJ KUMAR @ SUBE SINGH

..... Petitioner

versus

ARCHNA DEVI

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Ms. Anju Lal and Ms. Shalu Lal, Advocates

For the Respondent: Mr. V.P. Singh Bidhuri, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner-landlord impugns order dated 25.07.2016 whereby eviction petition filed by the petitioner has been dismissed holding that no party has any title to the property and accordingly a better title of the petitioner does not arise.

2. Subject eviction petition was filed by the petitioner seeking eviction of the respondent-tenant from one shop bearing private shop no. 6 in property no. 779/6 in Khasra No. 185/22, Scooter Market, Jheel Khuranja, Delhi-51 on the ground of bonafide necessity under

Section 14(1) (e) of the Delhi Rent Control Act, 1958, more particularly as shown in red colour in the site plan annexed with the eviction petition.

3. Application seeking leave to defend was filed by the respondent seeking leave to defend the eviction petition.

4. Even though no specific plea with effect to title of the petitioner was taken by the respondent-tenant in this application seeking leave to defend, Rent Controller suo moto considered the documents filed by the petitioner and returned a finding that the petitioner had no proprietorship/possessory title to the premises.

5. Initially lease was granted on 01.01.2019 by the Deputy Commissioner of Delhi for a period of 20 years which was then renewed. Subsequently lease deed was executed on 14.10.1940 by the Delhi Improvement Trust in favour of the grandfather of the petitioner-landlord for a further period of 20 years reserving yearly rent of Rs. 2/- per month.

6. Consequent to the lease deed, the predecessor of the petitioner constructed a building thereon and part of it was let out to the predecessor of the respondent-tenant.

7. Rent Controller in the impugned judgment has held that the lease deed executed by the Delhi Improvement Trust on 14.10.1940 was for a period of 20 years which expired in 1960 and thereafter the

lease was not renewed. Rent Controller has returned a finding that since the lease of the property by Delhi Improvement Trust succeeded by the Delhi Administration and DDA has been determined by efflux of time, petitioner has no proprietorship/possessory title to the property.

8. Neither the respondent-tenant nor the DDA has come forward to contend that the lease which was executed in favour of the predecessor of the petitioner was ever determined or terminated or expired by efflux of time, the Court suo moto returned this finding without any such plea being raised before it.

9. Clearly the Rent Controller has exceeded its jurisdiction in looking into the document and returning the above finding. Rent Controller has clearly erred in not noticing the judgment of the Supreme Court in '*Smt. Shanti Sharma & Ors. Vs. Smt. Ved Prabha & Ors.*' AIR 1987 Supreme Court 2028 wherein the Supreme Court held that even in a case where the lease had been cancelled by the DDA, a petition under Section 14(1) (e) of the Delhi Rent Control Act, 1958 would still be maintainable as no steps had been taken by the DDA for dispossession of the lessee therein.

10. Clearly in the present case, there is no cloud on the title of the petitioner being raised by either the respondent of the DDA and the respondent does not deny the relationship of landlord and tenant. Even if DDA had determined the lease but had not taken possession,

proceedings for eviction against the tenant who does not deny his status as a tenant, would still be maintainable.¹

11. The Rent Controller has clearly erred in dismissing the eviction petition holding that petitioner has no proprietary/possessory rights or title in the subject property.

12. Reliance placed by the learned counsel for the respondent in *Delhi Development Authority Vs. Anant Raj Agencies Private Ltd. (2016) 11 SCC 406*, is misplaced in as much as the said judgment was with regard to the right of the superior lessor to initiate proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 after determination/expiry of the lease of its lessee.

13. The question as to whether a petition under Section 14 (1) (e) of the Rent Act, would be maintainable or not did not arise not before the Supreme Court in the said case. Further, the Respondent Tenant has not even raised this objection in his application seeking leave to defend.

14. Clearly the order of the Rent Controller cannot be sustained. The same is accordingly set aside. Eviction petition filed by the petition is restored to its original number on the records of the Rent Controller.

15. The eviction petition is remitted to the Rent Controller for

¹ *Pritam Dass Versus Jiya Rani AIR 1981 Delhi 269*

consideration on merits. List the eviction Petition before the concerned Rent Controller on 18.12.2019.

16. The petition is allowed in the above terms.

17. Order *Dasti* under signatures of the Court Master.

NOVEMBER 28, 2019

'rs'

SANJEEV SACHDEVA, J

