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

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Judgment delivered on: 20.09.2019

+ RC.REV. 559/2019 & CM APPL. 42328-29/2019

RANBIR SINGH

..... Petitioner

versus

JIYA RANI @ JIYA JOSHI & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. M.K. Singh, Advocate

For the Respondent: None.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 04.11.2016 whereby leave to defend application filed by the respondent no. 2/tenant was dismissed and an eviction order passed.

2. Subject eviction petition was filed by respondent no. 1/landlady on the ground of bonafide necessity under Section 14(1) (e) of the Delhi Rent Control Act, 1958 seeking eviction of the respondent no. 2 from the tenanted premises comprising of Shop No. T-428, 1/2 , of 5090, Phatak Mishri Khan, Main Bazar, Pahar Ganj, New Delhi, more particularly as shown in red colour in the site plan annexed to

the eviction petition.

3. It was contended in the eviction petition by respondent no. 1 – landlady that she is the owner/landlord of the tenanted premises and the same is required bonafidely for starting of her own business of ladies suits and fabrics.

4. It was also alleged that the father and uncle of respondent no. 2 late Sh. Niranjn Singh and Sh. Swarn Singh were inducted into the tenanted premises by the uncle-cum attorney/special power of attorney holder late Shri Rattan Singh in the year 1957 @ Rs. 50/-. After the death of Shri Swarn Singh only Shri Niranjn Singh was left as the sole tenant. It was stated that respondent no. 1/landlady had come to know that Shri Niranjn Singh had also expired and respondent no. 2 being son and legal heirs was in possession of the tenanted premises.

5. Leave to defend application was filed by respondent no. 2 contending that the property was not owned by respondent no. 1-landlady and that the property was owned by DDA. It was alleged that respondent no. 2 was paying damage charges to DDA.

6. By the impugned order, Rent Controller has noticed that in support of her claim that the premises had been let out to Shri Niranjn Singh, respondent no. 1 has also placed on record the rent receipts of rent paid by Shri Niranjn Singh to the predecessor of respondent no. 1.

7. Rent Controller further held that respondent no. 2 had not disputed the bonafide requirement of respondent no. 1 or the non-availability of any alternative accommodation from which she could carry on her business.

8. With regard to the disputes regarding ownership, Rent Controller has noticed that landlord does not have to establish absolute ownership but has to only show a better title than the tenant.

9. Rent Controller noticed that respondent no. 1 had placed on record counterfoils of rent receipts issued by the special power of attorney holder of respondent no. 1 who had collected rent from the tenant. Rent Controller also noticed that it was not disputed by the respondent no. 2, in his leave to defend application that his predecessor Shri Niranjana Singh had entered into the premises in the capacity of a tenant.

10. Rent Controller was of the view that as the fact that Shri Niranjana Singh had been inducted as a tenant by the special power of attorney holder of respondent no. 1 was not denied, respondent no. 2 could not deny the relationship of landlord-tenant and held that the relationship should stand proved. Accordingly, leave to defend application was dismissed.

11. Respondent no. 2 against whom the eviction petition was filed and who is the son of Shri Niranjana Singh did not assail the order dated 04.11.2016 whereby the leave to defend was declined.

12. The petitioner herein claims to be a nephew of Shri Niranjn Singh and claims that he was occupying the premises along with Shri Niranjn Singh. Petitioner had filed a suit for declaration and permanent injunction claiming a declaration that he was occupying the premises under DDA and not as a tenant under respondent no. 1.

13. Summons in the suit was served on the respondent no. 1 who filed her written statement.

14. Pending the suit, the petitioner was evicted from the tenanted premises by the Bailiff appointed in execution of the eviction order dated 04.11.2016 sometime in October, 2017. Thereafter petitioner filed an application before Rent Controller objecting to the execution of the decree. By order dated 16.10.2017, the objections were dismissed on the ground that the execution stood satisfied as the vacant possession of the premises had already been recovered.

15. Subsequently, by order dated 12.02.2019, the Suit for declaration filed by the petitioner was also dismissed.

16. Petitioner, thereafter has filed the present proceedings as noticed above.

17. In the eviction petition filed by respondent no. 1/landlady, she has expressly stated that Shri Niranjn Singh was inducted in the premises as a tenant. In the leave to defend application filed by respondent no. 2 (son of Shri Niranjn Singh), there is no denial to the

said fact that Sh. Niranjan Singh was inducted as a tenant. There is no independent claim set up by the respondent no. 2 to the property.

18. Petitioner claims to have come in possession as he was allegedly working with Sh. Niranjan Singh. Even the petitioner does not claim any independent title to the property. Both in the leave to defend filed by Respondent No. 2 as well as in the Suit and also the present petition, the only ground taken by the petitioner is that respondent no. 1-landlady has failed to establish her title to the property and they were paying damages to the DDA.

19. It is settled position in law that to seek an eviction under Section 14(1) (e) of the Delhi Rent Controller Act on the ground of bonafide necessity, a landlord is not required to establish his/her absolute ownership but has to show a better title than the tenant.

20. In the present case, the case set up by the landlady is that Sh. Niranjan Singh was inducted as a tenant. There is no denial to the fact that Sh. Niranjan Singh was inducted as a tenant. A tenant who has been inducted as a tenant cannot dispute the title of the landlord through whom he comes into possession.

21. It may be noticed that the tenant who was occupying tenancy has not assailed the eviction order or the order declining leave to defend.

22. Petitioner is nephew of Sh. Niranjan Singh who has not claimed

any independent title or interest in the property in his own right and his right does not emanate through Shri Niranjana Singh. Petitioner has no independent ground to impugn the eviction order dated 04.11.2016.

23. Even otherwise, I find no infirmity in the view taken by the Rent Controller that the affidavit in support of the leave to defend does not disclose any triable issue or raise any ground which, if proved, would disentitle the respondent no. 1-landlady of order of eviction.

24. Rent Controller has found that need of the respondent no. 1 is bonafide and even otherwise the premises already stand vacated, sometime in October, 2017, in execution of the eviction order.

25. I find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J

SEPTEMBER 20, 2019

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