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

% Judgment delivered on: 28.08.2019

+ RC.REV. 235/2013 & CM APPL. Nos. 24660/2018 (recall),
30050/2018 (directions) and 48840/2018 (directions)

RAM GOPAL & ANR Petitioners

versus

MANJU SURI Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sunil K.Mittal, Adv.

For the Respondent : Mr. O.P.Aggarwal, Adv.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner/tenant impugns order dated 14.03.2013 whereby the eviction petition filed by the respondent has been allowed after trial.
2. Respondent/landlady had filed an eviction petition under Section 14(1)(e) of the Delhi Rent Control Act read with Section 25B contending that respondent had purchased property No.5561-5564 consisting of three shops on ground floor, one room on first floor and terrace and two tin sheds on the second floor.

3. It was further contended that petitioner/landlady who was qualified required one shop for running her boutique and one shop for her son who had at that time attained the age of 21 years. Petitioner had contended that she required at least two shops out of the three for their bonafide need.

4. Learned counsel for the petitioner submits that leave to defend was granted and pending trial petitioner came to know that the other two shops i.e. 5562 and 5563 got vacated and possession was delivered to the respondent landlady and as such the need was satisfied. Accordingly, an application for amendment was filed.

5. Learned counsel submits that the Trial Court while allowing the application for amendment held that the issue as to whether the need was satisfied or not would be considered at the final stage. He submits that by the impugned order the Trial Court has erred in returning a finding that admittedly no premises was available to the respondent landlady and has erred in not appreciating that two shops which were projected as occupied by tenants in the eviction petition had become available during the pendency of the eviction petition.

6. Learned counsel for the respondent submits that the two shops which were earlier occupied by one tenant had been joined by the earlier tenant by demolishing the partition wall and now are being used by the son of the respondent landlady for his bonafide business. He submits that the bonafide need of the petitioner still exists. He

seeks leave to withdraw the eviction petition filed by the respondents and submits that he shall be filing a fresh petition, in accordance with law, for the bonafide need which has arisen/grown.

7. It is disputed by learned counsel for the petitioner that there is any need that has arisen/grown.

8. In view of the above, the eviction petition filed by the respondent landlady is dismissed as withdrawn. Consequently, the eviction order dated 14.02.2013, impugned herein, is set aside.

9. It is clarified that this Court has neither considered nor expressed any opinion on the contention of the respondent landlady that her need still subsists or has grown or otherwise. Any fresh petition filed by the respondent would be considered, in accordance with law, without being influenced by anything stated herein.

10. Order *dasti* under the signature of the Court Master.

AUGUST 28, 2019
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SANJEEV SACHDEVA, J