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

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Judgment delivered on: 25.11.2019

+ RC.REV. 143/2019 & CM APPL.11147/2019 & 11148/2019

M/S NATIONAL MACHINERY STORES & ANR..... Petitioners

Versus

SUSHIL KUMAR & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr.Akash Kumar, Advocate.

For the Respondents: Mr.Ankit Jain, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioners impugn order dated 25.04.2018 whereby the leave to defend application of the petitioner has been dismissed and an eviction order passed.

2. Learned counsel for the respondents submits that the petitioner has not placed on record complete copy of the eviction petition. Complete copy of the eviction petition has been handed over in Court today. Same is taken on record.

3. Subject eviction petition was filed by the respondent under

section 14(1)(e) of the Delhi Rent Control Act, 1958 on the ground of bonafide necessity, inter-alia contending that the son of respondent No.1, Mr. Keshav Gupta is educated and has also received advanced training in Mobile Technology and wanted to open a shop for mobile repairs etc.

4. It is contended that Mr.Keshav Gupta was working as a delivery assistant for M/s.Amazon Transportation Service Pvt Ltd and they have no other accommodation available wherefrom the said Mr. Keshav Gupta could carry on his shop.

5. Subject leave to defend application was filed by the petitioner inter-alia that Mr. Keshav Gupta was not working with M/s.Amazon Transportation Service Pvt Ltd but was working as a delivery associate with Quess Corp Ltd and the other ground taken by the petitioner is that respondent has another premises available being Shop No.3896 which is being used as a staircase and the same could be used as a shop by the respondent.

6. Though the contention of the respondent is that Mr. Keshav Gupta was working as a delivery associate with M/s.Amazon Transportation Service Pvt Ltd whereas the case of the petitioner is that he is working with Quess Corp Ltd, in reply to the leave to defend application, respondent has clarified that Quess Corp Ltd is an agent working for M/s.Amazon Transportation Service Pvt Ltd and the son of the respondent Mr.Keshav Gupta works as a delivery associate.

7. From the perusal of the pleadings, it is clear that there is an admission by the petitioner himself that respondent's son is only working as a delivery associate. It is not in dispute that he does not have a stable job.

8. Petitioner in the leave to defend application has not been able to dispute the contention of the respondent that he requires the premises for opening a shop by his son Mr.Keshav Gupta who is working as a delivery associate. Petitioner has not been able to show anything to suggest that the need of the Respondent is not bonafide.

9. With regard to the alternative accommodation i.e. Shop No.3896, respondent has placed on record documents to show that 3896 is a number allotted to a staircase in the property and it is not an independent shop or premises.

10. The contention of the petitioner himself is that Shop No.3896 is being used as a staircase. Petitioner has not placed any material on record to show that 3896 is in fact a four walled premises wherefrom a shop could be opened.

11. No other ground has been raised by the petitioner in the leave to defend application or even pleaded before this court.

12. Petitioner has not been able to show that the need of the Respondent of the subject premises for opening of a shop by his son is not bonafide. He has also not been able to show that the respondent

has any other alternative, suitable accommodation available.

13. I find no infirmity in the view taken by the Rent Controller that the leave to defend application does not raise any triable issue and does not plead facts which, if proved, would disentitle the respondent landlord from an order of eviction.

14. I find no merit in the petition.

15. The petition is accordingly dismissed.

16. For the purpose of record, it is also noted that the respondent has already taken possession of the tenanted premises in execution proceedings.

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

SANJEEV SACHDEVA, J

NOVEMBER 25, 2019

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