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

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Judgment delivered on: 27.09.2019

+ RC.REV. 265/2015 & CM APPL. 9862/2015, 9864/2015,
46207/2016, 39374/2017, 43581/2019

VISHWANATH

..... Petitioner

versus

GURMEET SINGH & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Rajat Aneja and Ms. Chandrika Gupta,
Advocates

For the Respondent: Mr. Yogesh Kumar, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 20.02.2015 whereby leave to defend application of the petitioner has been dismissed and eviction order passed.

2. Subject eviction petition was filed by the respondent on the ground of bonafide necessity under Section 14(1) (e) of the Delhi Rent Control Act seeking eviction of the petitioner from one shop bearing Shop No. 5 in property bearing No. WZ-161/12/2, (New No.

A-37), Khazan Basti, Nangla Raya, Mayapuri, New Delhi, more particularly as shown in red colour in the site plan attached to the eviction petition.

3. The ground of eviction pleaded by the respondent is that he has a big family and is unemployed and has tried to locate a job but could not get a job and is in need of a shop for earning his livelihood and wants to run a Restaurant for which the subject tenanted premises is required.

4. Petitioner filed leave to defend application contending that respondent had 28 shops in the same building and several of which were lying vacant and are available.

5. The response of the respondent-landlord was that all shops were under occupation of the tenants and he had 1 – 2 shops which were not suitable for running the said business. Rent Controller was of the view that the petitioner had not been able to raise a triable issue or raise a ground which would disentitle the respondent/landlord from an order of eviction. Accordingly, leave to defend was rejected.

6. During pendency of the present petition, after passing of the eviction order certain subsequent events took place consequent to which petitioner filed applications bearing CM APPL. Nos. 9864/2015, 46207/2016, 39374/2017, 43581/2019 seeking to place on record the factum that after the passing of the eviction order and during pendency of the present petition, two shops bearing Shop No. 8

& 14 fell vacant which were still lying vacant. Thereafter two shops were demolished and recently two shops have been sold by the respondent by sale deed dated 13.12.2017 and 02.02.2018.

7. Contention of the learned counsel for the respondent is that two shops bearing Nos. 8 & 14 were not suitable for the requirement of the respondent and the two shops which are alleged to have been demolished, fell down because of storm and rain and thirdly that the sale deeds referred to by the respondent were sale deeds executed in favour of the tenants who were already occupying the premises and were protected under the Delhi Rent Control Act.

8. Perusal of the impugned order shows that the Rent Controller has not opined as to how the shops which were admittedly in the possession of the respondent.

9. Further it may be noticed that after the impugned order was passed, shops became available, which have either not been occupied on the ground of being unsuitable or have been sold allegedly to the tenants who were occupying the same and are alleged to be protected under the Delhi Rent Control Act.

10. The question as to whether the accommodation which became available during pendency of the present petition was suitable or not and that the shops were already occupied by the tenants who were protected under the Delhi Rent Control Act and shops were sold to the said tenants are the questions which require determination.

Accordingly, in view of the above, the subsequent events alone raise triable issues and in case the same are proved by the Petitioner/Tenant, the Rent Controller would be required to consider as to whether the need projected by the Respondent/landlord is fulfilled or not.

11. Accordingly, the impugned order dated 20.02.2015 declining leave to defend to the petitioner is set aside. Petitioner is granted leave to defend the eviction petition.

12. List the Eviction Petition before the concerned Rent Controller on 11.11.2019. Petitioner shall file his written statement before the Rent Controller on the said date.

13. Keeping in view the fact that the eviction petition was filed in the year 2012, Rent Controller is directed to expedite the proceedings and endeavour to conclude the same within a period of 9 months from the next date before the Rent Controller.

14. The petition is accordingly disposed of in the above terms.

15. Order dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 27, 2019

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