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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 622/2015 & CM APPL No.28558/2015**
INDERJEET SINGH

..... Petitioner

Through : Mr.S.P.Singh, Advocate

versus

RAJESH KUMAR & ANR

..... Respondents

Through : Ms.Sonali Malhotra and Mr.Anant
Bhardwaj, Advocates

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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08.02.2019

1. This revision challenges the impugned order dated 27.08.2015 passed by the learned Senior Civil Judge-Rent Controller, South-East District, Saket Courts, New Delhi (hereinafter 'Trial Court') in Eviction Petition E-13/2015 titled *Rajesh Kumar & Another vs Inderjeet Singh* filed by the landlords/respondents herein against the tenant/petitioner under Section 14 (1) (e) of the Delhi Rent Control Act, 1958 (DRC Act).

2. The learned Trial Court vide impugned order dismissed the application for leave to defend filed by the petitioner and passed an eviction order in respect of one room along with common toilet in the property bearing No.120, Hari Nagar, Ashram, New Delhi

(hereinafter 'tenanted premises') at the monthly rental of ₹ 650/- per month besides the electricity and water charges.

3. As per the petition, both respondents are the owner of the tenanted premises and the manner as to how they became the owner thereof, is enumerated in para Nos.1 to 7 of Annexure A to the eviction petition, which is not being repeated for sake of brevity.

4. Even otherwise, the ownership of the respondent over the suit property is not seriously challenged before me since the petitioner has been depositing the rental of the tenanted premises under Section 27 of the DRC Act in the name of the respondents herein and thus admitted the respondents as owner/landlord of the tenanted premises.

5. The property bearing No.120 Hari Nagar, Ashram, Delhi consists of four shops and six residential rooms; out of four shops, one shop is in occupation of respondent No.1 and another shop is occupied by Ashok Kumar Gupta against whom an eviction petition was filed and now he has to vacate the shop in the year 2020 as per the compromise so arrived at between them. The eviction petition was filed against this petitioner in respect of one residential room and a common toilet as shown in Red colour in site plan and whereas three rooms in the property are in possession two other tenants namely Sh.Trilok Singh and Sh.Talvinder Singh Malhotra @ Raju as shown in Green colour in site plan. The room which was under the tenancy of one Gian Chand Sharma has since been vacated in December 2014. Another room admeasuring 11 x 21 feet is in occupation of the respondent and hence respondent is in occupation

of two rooms in the said property besides the gallery which is shown in blue colour in the site plan. There is no kitchen in the property and there are only two small toilets which are being used by the tenants.

6. It was alleged the respondents are presently residing in property No.27, Bazar Lane, Jangpura, Bhogal, New Delhi which is also a joint property and is purely residential in nature and since the respondents are in possession of 125 square yards of such property at Bhogal and have ten rooms in their occupation they do not require the premises bonafide. However, the respondent No.1 says he does not wish to live in said accommodation at Bhogal for the two reasons – *a*) he is having his office in the property where the tenanted premises is situated, and *b*) because of the strained relations of his wife with the wife of his brother that they both are unable to live together in the property at Bhogal.

7. The leave to defend application was filed by the petitioner herein and he, primarily, took two objections, *a*) prior to the filing of the eviction petition, the respondents served a legal notice dated 07.05.2014 upon the petitioner wherein he has stated the property No.27, Bazar Lane, Bhogal, New Delhi do not belong to them and the respondents need to vacate the property but whereas in the eviction petition they had alleged they are the owners of ten rooms in the said property, hence there are contradictions in the legal notice as also in the eviction petition.

8. Here, I may point out that there was no need to issue any legal notice before filing of the eviction petition under Section 14 (1) (e) of

the DRC Act. Reliance is placed on *The Punjab State Co-Operative Supply & Marketing Federation Limited v. Amit Goel*, 2013 (2) RCR (Rent) 493 which relied on *Mehendra Trivedi v. Jai Prakash Sharma* 157 (2009) DLT 690; and *T.B.Jain v. Savita Ravi*, 2008 VI AD (DELHI) 103. Therefore, the issuance of legal notice dated 07.05.2014 is irrelevant and can be disregarded.

9. Regarding the plea the respondent No.1 has an alternative accommodation i.e. ten rooms at Bhogal property which he shares with his brother is of no merit since, admittedly, the respondent No.1 has his business / office at premises No.120, Hari Nagar, Ashram, New Delhi wherein he already has two rooms in his occupation and his requirement is qua the entire property at the ground floor to be used by him and his family members for their residence and also for his office purposes. Admittedly the respondent No.1 is physically challenged person with disability to the extent of 40%. It is the case of the respondent the Bhogal property is owned by various members of his family.

10. I would here like to refer to the operating portion of the impugned order passed by the learned Trial Court wherein the learned Rent Controller has very aptly dealt with the bonafide need of the respondent. The relevant portion notes:-

“15. Coming to the bonafide need of the petitioner no. 1, petitioner no. 1 has specifically stated that he has suffered 40% of disability in the form of post traumatic contracture of right leg and great toe deforming and shortening of right lower limb way back in the year 1991. He has further stated that he is suffering from diabetes and hyper tension. His wife is unable to live amicably with the wife of petitioner no.2. This fact has also not been disputed that, petitioner no.1 is working as a property agent from one of the shop as shown in black in the site plan in the suit property. In

these circumstances, petitioner has prayed that it is difficult for him to travel and he wants to have his residence near his place of work.

16. Law is well settled that landlord is the best judge of its requirement and has complete freedom in the matter. Petitioner no.1 who is suffering from 40% of disability intending to shift to the suit property is the most natural and bonafide need and appeals to reason. Petitioner has come clean with his case and stated that he has already got two rooms in the said property and a gallery but it does not have any bathroom and kitchen. Petitioner has also spelt out the need of one room for him and his wife and one room each for his two children, one room as drawing room, one room as dining room and one room as kitchen and one room for Puja purposes. Petitioner has also categorically stated that he has filed the eviction petition against other tenants in respect of other portions of the suit property. In a metropolitan city like Delhi, where traffic jams on the roads are a norm and drain the vitality of life of the commuters on the road, the need of petitioner no.1 who suffers from 40% disability, to have the residence near the place of his work is the most natural need. The need to have work place and office at the same place is the requirement of almost everyone in place like Delhi. I find no reason to doubt the bonafide need of the petitioners in this regard. In my considered opinion, no triable issue is raised in this regard necessitating leading of any evidence regarding bonafide need of the petitioner no.1.

17. Coming to availability of other suitable alternative accommodation: Petitioners have categorically stated that currently they are residing in property no.27, Bazar Lane, Jungpura, Bhogal, New Delhi which is built on area of 125sqr. Yards and apart from the petitioners, there are other co-sharers/claimants of this property namely LR's of Late Sh.Raghuvir Sharan and Sh. Bhupinder kumar. They have also elaborated the extent of accommodation there which is 10 rooms in occupation of the petitioners.

18. However, the suitability of accommodation of the petitioners has to be appreciated in the context of peculiar facts and circumstances of each case. The admitted position is that petitioner no:1 has 40% disability and suffers from other diseases. Therefore the need to have his place of work near his residence, coupled with the fact that wives of both the petitioners are unable to adjust in the same accommodation which has other claimants also and in the given facts and circumstances, it cannot be held that the petitioner no. 1 has other suitable alternative accommodation. Therefore, no triable issue is raised in this regard necessitating leading of any evidence."

11. The learned ARC has noted the practical difficulties being faced by respondent No.1 in commuting between Ashram and Bhogal, being a disabled man. The respondent No.1 has filed eviction petitions against other tenants too since he and his family intends to shift to this place where respondent No.1 has his office and he has sufficiently explained he requires one room for him and his wife, one room each for his two children, one dining room, one puja

room besides other facilities. Hence the need of the respondent No.1 to settle at a place where he works, being a handicapped person, is the most natural need and is rightly held to be so by the learned ARC, due to the peculiar facts of this case.

12. Hence, I find no illegality or perversity in the impugned order. Even otherwise, the revisional power is largely meant for satisfying itself as to the regularity, legality or propriety of proceedings or decisions of the subordinate Court. Hence there is no merit in the petition and the same is dismissed. The pending application(s), if any, is also dismissed. No order as to costs.

YOGESH KHANNA, J.

FEBRUARY 08, 2019

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