

\$~55

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

%

Judgment delivered on: 28.02.2020

+ RC.REV. 118/2020

MADAN LAL

..... Petitioner

versus

MEENA

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Rajesh Rai and Mr. Manmeet Singh Marwah,
Advs

For the Respondent: None

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 7879/2020 (Exemption)

Allowed, subject to all just exceptions.

RC.REV. 118/2020

1. Petitioner impugns order dated 15.07.2019, whereby eviction petition filed by the respondent has been allowed and an eviction order passed.

2. Respondent had filed the subject eviction petition on the ground of bonafide necessity under Section 14(1)(e) of Delhi Rent Control

Act, 1958 in respect of two rooms with kitchen with facility of bath situated at ground floor of property No. 3305, Ranjit Nagar, New Delhi, more particularly shown in red colour in the site plan annexed with the eviction petition.

3. Petitioner was served with the summons on 18.01.2019 and did not file any application seeking leave to defend. Eviction order was passed on 15.07.2019.

4. It is contended by the learned counsel for the petitioner that petitioner is suffering from Sepsis Shock and is bed ridden. He submits that the medical record showing his ailment have been filed and in view thereof, the impugned order is liable to be set aside and an opportunity is liable to be granted to the petitioner to file an application seeking leave to defend the eviction petition.

5. Medical records annexed with this petition show that the petitioner was admitted to hospital on 23.10.2018 and discharged on 30.10.2018. As per the process server's report, the process server met the petitioner and duly served the petitioner on 18.01.2019. There is no material on record to even show that the petitioner was incapacitated in January, 2019 or thereafter. Impugned eviction order has been passed on 15.07.2019 i.e. nearly six months after the service upon the petitioner. No attempt was made by the petitioner to even approach the Rent Controller for a period of six months.

6. In view of the judgment of the Hon'ble Supreme Court in

Prithipal Singh vs. Satpal Singh (2010) 2 SCC 15, if the tenant does not file the leave to defend application within the statutory period of fifteen days, the averments in the eviction petition are deemed to be correct and the landlord is entitled to an order of eviction.

7. I find no infirmity in the impugned order passed by the Rent Controller allowing the eviction petition on the ground that leave to defend has not been filed. There is no merit in the petition. The petition is accordingly dismissed.

8. For the purposes of record, it may also be noted that petitioner has already been evicted in execution proceedings.

FEBRUARY 28, 2020

PB

SANJEEV SACHDEVA, J.