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

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Judgment delivered on: 24.02.2020

+ RC.REV. 266/2019 & CM APPL. 19993/2019

RAVINDER SINGH & ANR

..... Petitioners

versus

NARESH KUMAR & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Praveen Suri, Advocate with petitioner no. 1 & 2 in person.

For the Respondent: Mr. Niraj Chaudhary with Mr. A.S. Sharma,
Advocates for R-1 to 3.
None for respondent No.4.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. None is present on behalf of the Respondent No. 4 despite service. Respondent No. 4 is the brother of the petitioners/landlord and is a co-owner of the subject property. He has filed his affidavit of no objection to the eviction petition.

2. Petitioner/landlord impugns order dated 04.04.2019 whereby eviction petition filed by the petitioner under Section 14 (1) (e) of Delhi Rent Control Act, 1958 on the ground of bonafide necessity has

been dismissed by the Rent Controller after trial.

3. Petitioner had filed the subject eviction petition seeking eviction of the respondents from one room, one kitchen, one bathroom/WC on the first floor of Property bearing No. 11203, First Floor, Mandir Road, Gaushala Marg, Kishan Ganj, Near Arya Samaj Mandir, Delhi-110006, more particularly as shown in red colour in the site plan annexed to the eviction petition.

4. Petitioners had filed the subject eviction petition seeking eviction of the respondents on the ground that they are residing on the ground floor consisting of four rooms, four kitchens and WC and the family of petitioner no. 1 comprises of petitioner no. 1 himself, his wife, two daughters and one son. One daughter and one son of petitioner no. 1 are married and the son also has a daughter from the wedlock. Accordingly, family of petitioner no. 1 comprises of him, his wife and one married son, one unmarried daughter, daughter-in-law and granddaughter. Family of Petitioner no. 2 comprises of himself, his wife and three unmarried daughters, two of whom are major. In these circumstances, the petitioners submitted that they require 7 (seven) rooms for their use and occupation and they only had four rooms on the ground floor.

5. There are two tenants on the first floor; both having equal accommodation of one room, one kitchen and one bathroom/WC each.

6. Leave to defend the eviction Petition has been granted by the impugned order taking into account the site plan filed by the Respondent/tenant.

7. Learned counsel for the petitioners contends that even if the site plan filed by the respondent was to be taken into account, it clearly shows that there are only four rooms in possession of the petitioners. The four rooms held by the Rent Controller to be rooms are of the dimensions 7.3' x 6', which would not qualify as bed rooms.

8. After some arguments, learned counsel for respondents Nos. 1 to 3 under instructions from the respondents Nos. 1 to 3 submits that the said respondents admit the relationship of landlord-tenant and admit that the Petitioners are the owners and landlords of the subject premises. They further admit that the need of the petitioners is bonafide. They further admit that the petitioners do not have any other suitable alternative accommodation available with them.

9. Learned counsel appearing for respondents Nos. 1 to 3 under instructions from the said respondents submits that the respondents admit the claim of the petitioners and do not wish to press their leave to defend application and contest the eviction petition and pray that an eviction order be passed, however, permitting them to continue to occupy the premises till 23.02.2021.

10. Respondents who are present in court undertake that

Respondents 1 to 3 shall vacate and handover the peaceful vacant possession of the tenanted premises to the petitioner on or before 23.02.2021. They further undertakes that they shall pay use and occupation charges with effect from 01.08.2020 @ ₹5000/- per month till the time they hand over the peaceful vacant possession of the tenanted premises to the petitioners on or before 23.02.2021.

11. Learned counsel for the respondents further undertakes that they shall clear the water, electricity and other dues/charges in respect of the tenanted premises before they vacate the premises. They further undertake that they shall not sublet, assign or part with the possession of the tenanted premises or any part thereof. They further undertake that they shall not cause any damage to the property and shall hand over the peaceful vacant possession of the same in the condition as it exists today subject to normal wear and tear.

12. The undertaking is accepted.

13. Learned counsel for the petitioners under instructions from the petitioners submits that the undertaking is also acceptable to the petitioners.

14. In view of the above, the impugned order dated 04.04.2019 is set aside. The eviction petition is allowed. Decree of eviction is passed in favour of the Petitioner and against the Respondent in respect of one room, one kitchen, one bathroom/WC on the first floor of Property bearing No. 11203, First Floor, Mandir Road, Gaushala

Marg, Kishan Ganj, Near Arya Samaj Mandir, Delhi-110006, more particularly as shown in red colour in the site plan annexed to the eviction petition.

15. Affidavit of undertaking in the above terms shall be filed by the respondents within a period of two weeks from today.

16. It is further directed that in terms of Section 14(7) of the Delhi Rent Control Act, 1958, the eviction order passed herein shall not be executable for a period of six months. However, subject to filing of an affidavit of undertaking by the Respondents Nos. 1 to 3 in terms hereof, the eviction order shall not be executable till 23.02.2021.

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

FEBRUARY 24, 2020
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SANJEEV SACHDEVA, J