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

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Judgment delivered on: 30.01.2020

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RC.REV. 703/2019 & CM APPL. 240/2020

VEENA RANI & ORS.

..... Petitioners

versus

PURSHOTTAM DASS SHARMA & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Vijay Mishra, Advocate with petitioners 1 & 3 in person.

For the Respondent: Mr. Vineet Kaushal & Mr. R.N.Sharma, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioners impugn the order dated 08.05.2019 whereby the leave to defend application of the petitioners has been dismissed and eviction order passed.

2. Subject eviction petition was filed by the respondents on the ground of bona fide necessity under Section 14 (1) (e) of Delhi Rent Control Act, 1958 seeking eviction of the petitioner from one room with area of 12' x 10' with covered small space for kitchen on 1st Floor of property bearing No.5/9, Singh Sabha Road, Shakti Nagar,

Delhi , more particularly as shown in red colour in the site plan annexed with the eviction petition.

3. The contention of learned counsel for the petitioner is that (i) there is no relationship of landlord and tenant between the parties, (ii) the tenanted premises having been let out for commercial purposes and petition under Section 14(1) (e) of Delhi Rent Control Act is not be maintainable, (iii) that there is no bona fide need of the respondent because 50 years ago, respondent had given a notice seeking possession from the petitioner and they have waited for 50 years to file the eviction petition, (iv) there are several tenants in the property and eviction petition has been filed only against the petitioner and he has been single out.

4. With regard to the first ground raised by learned counsel for the petitioner that there is no relationship of landlord and tenant between the parties, the rent controller in the impugned order has not noticed that Respondent/landlord had placed on record the sale deed executed by the DDA in favour of the father of the respondent as well as his brother. Brother of the father of the respondent was single and unmarried and on his demise, his share in the property devolved on the father of the respondents and on demise of the father, respondents had become the co-owners of the property. Rent Controller held that respondent had better title than the petitioner and accordingly held that the petition was maintainable.

5. Perusal of the leave to defend application filed by the petitioner, shows that the stand taken by the petitioner in the leave to defend application itself is that the petitioners are in possession of the premises as tenants for more than 50 years and it is further contended that they have been regularly paying the rent. The submission of learned counsel for the petitioner that there is no relationship of landlord and the tenant is not even taken as a ground in the application seeking leave to defend. On the other hand, petitioner has not stated, if not the respondents, who is the landlord of the premises. This ground is not available to the petitioner.

6. Second ground raised by learned counsel for the petitioner is that the tenanted premises are commercial in nature and as such the petition is not maintainable. Once again it is seen that such plea has not been taken in the leave to defend application and even otherwise, said issue is no longer *res integra*, in view of the judgment of the Supreme Court in *Satyawati Sharma (Dead) by LRs. vs. UOI & Anr.* (2008) 5 SCC 2878.

7. The other contention that there is no bona fide necessity as the respondents had issued notice 50 years ago seeking possession and waited for 50 years to file the petition is also not sustainable. The notice dated 13.01.1969, which is relied on by learned counsel for the petitioner, was a notice demanding arrears of rent and possession. Even otherwise in 1969 no petition under Section 14(1)(e) of the

Delhi Rent Control Act could have been filed because the premises admittedly are commercial in nature and its only on account of the judgment of the Supreme Court in *Satyawati Sharma* (supra), wherein it is held that landlord can seek eviction of a tenant of commercial premises under Section 14(1) (e) of the Delhi Rent Control Act.

8. Further, merely because a landlord does not file the petition seeking eviction even after giving notice does not preclude the landlord from filing a petition on the ground of bona fide necessity at later point of time.

9. The other contention raised by learned counsel for the petitioner that petitioner has been singled out no proceedings have been initiated against other tenants, is also without any merit. A landlord is the best judge of his requirement and it is open to the landlord to decide as to which premise is more suitable for his requirement. Neither the tenant nor the Court can dictate to the landlord as to which premises would be suitable. The choice is left to the landlord to choose.

10. Even otherwise, it is not the case of the petitioner that there is no necessity of the respondent or that the need is not bonafide or that any other suitable alternate accommodation is available to the respondent, which is vacant.

11. I find no infirmity in the view taken by the Rent Controller that on the affidavit filed in support of the application for leave to defend

does not raise any triable issue. Petitioner has not been able to show any ground, which if proved, would disentitle the respondents from an order of eviction.

12. I find no merit in the petition. The petition is accordingly dismissed.

13. For the purposes of record, it is noted that respondents have already received possession of the tenanted premises on 19.12.2019 through warrants of possession issued by the executing court in execution of order dated 08.05.2019.

14. Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 30, 2020
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