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

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Judgment delivered on: 14.01.2020

+ RC.REV. 207/2018

MOHD YUSUF

..... Petitioner

versus

MOHD REHAN SIDDIQUI & ORS

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner: Mr. Amiet Andlay with Mr. Arun K. Sharma and  
Mr. Mohd. Anis Ur Rehman, Advocates.

For the Respondents: Mr. R.K. Sharma, Advocate.

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

**RC.REV. 207/2018 & CM APPL.19572/2018 (for placing on  
record additional documents), CM APPL.19574/2018 (stay), CM  
APPL.19575/2018 (for condonation of delay)**

1. Petitioner impugns order dated 07.11.2017, whereby, leave to defend application of the petitioner has been dismissed and an eviction order passed.

2. Subject eviction petition was filed by the respondents seeking eviction of the petitioner on the ground of bonafide necessity under Section 14(1) (e) of the Delhi Rent Control Act, 1958, from two

rooms, one kitchen, one latrine, bathroom and open space on first floor of property bearing No.5000, Lal Gali, Kucha Rehman, Chandni Chowk, Delhi, more particularly as shown in red colour in the site plan annexed with the eviction petition.

3. The ground of eviction pleaded by the respondents was that the property was originally owned by Ms. Khalida Begum, who expired in April 2017 and thereafter the property devolved upon her children. She was survived by six sons out of them one was the bachelor at the time of the filing of the petition and was getting married in October and subsequently, he got married. She also had three daughters. All the sons and daughters were married and living with their own family in the suit property. Total number of family members of the petitioner living jointly was stated to be 26; including the petitioner, their wives, 12 children, most of the children were school going. Besides these, they also had three married sisters, who used to visit the petitioners off and on with their families and since there was no accommodation, they had to be adjusted in the neighbours' place.

4. It is contended in the eviction petition that they require at least 15 rooms including 6 study rooms, two guest rooms and bed rooms for all 6 petitioners and one dining room. Subject property is built up over the plot of an area of 125 sq. yards having four floors. The first floor was occupied by the two tenants; the petitioner as well as the other tenant. With regard to other tenant, the eviction order has been passed and, on an undertaking, given by the other tenant in RC

Rev.66/2018, time has been granted to the said tenant to vacate the premises on or before 31.12.2020.

5. The only contention raised by the learned counsel for the petitioner is that the subject premises is commercial and has been let out to the petitioner for commercial purposes and for the last over 40 years, premises is being used for commercial purposes.

6. Learned counsel for the petitioner submits that since the nature and character of the premises is today commercial, the same cannot be used for residential purposes.

7. Per contra, learned counsel for the respondents submits that the premises was originally let out as residential and subsequently, the petitioner had started using the same as commercial. It is further pointed out that the property is a residential property, which was being put for commercial use on the ground and first floor and on account of paucity of accommodation, respondents intends to use the same for the purpose of residence.

8. The only argument advanced on behalf of the petitioner, to impugn the order declining leave to defend, is that the nature and character of the premises is commercial and the requirement stated by the respondents is for residential.

9. Further, it is contended by the learned counsel for the petitioner that the mother of the respondent had earlier filed an eviction petition,

which was dismissed.

10. It is contended by the learned counsel for the respondents that the said petition was dismissed as at that point of time the judgment of the Supreme Court in *Satyawati Sharma (Dead) by LRs. vs. UOI & Anr.* (2008) 5 SCC 287 had not been pronounced and accordingly, the eviction petition was held to be not maintainable in respect of a commercial premises.

11. It is settled proposition of law that even if the premises has been let out for commercial purposes and are being used as commercial, a petition under section 14(1)(e) of the Act for bonafide need for use as residential is maintainable.

12. It is an admitted position that the property is situated in a residential area though there are several commercial establishments in and around the property. However, the use premises, as specified in the Master Plan for the subject property, is residential.

13. Even though the building may have been put to commercial use for over 40 years, there is no prohibition in law in reconverting the property and putting the same for residential use.

14. The site plan of the property also indicates that the property is constructed in a fashion that the same can be put to residential use. There is also no embargo in law pointed out by the petitioner that the said property cannot be used for residential purpose.

15. It is open to the landlord to seek eviction of a commercial property for a bonafide need irrespective of the fact whether the need is for residential or commercial accommodation. Merely because the property was once let for commercial use and was used for commercial purposes, is no ground to deny eviction for a residential requirement.

16. With regard to the dismissal of the earlier petition on the ground of maintainability as letting was commercial, it may be seen that the earlier petition was filed in the year 1995 and the subject petition has been filed in the year 2017. The Supreme Court subsequently in *Satyawati Sharma (Supra)* has declared that a petition under section 14(1)(e) would also lie to seek eviction from a commercial premises. There is no merit in this contention as well.

17. I find no infirmity in the view taken by the Rent Controller that no triable issue arises or the petitioner has not been able to show any fact, which, if proved, would disentitle the respondent landlord from an order of eviction.

18. I find no merit in the petition. The Petition is, accordingly, dismissed.

19. Order Dasti under the signatures of the Court Master.

**SANJEEV SACHDEVA, J**

**JANUARY 14, 2020/st**