

\$~16 & 18

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

Date of decision: 22nd July, 2021

+ **C.R.P. 49/2021**

SHEELA DEVI @SHEELA BANSAL Petitioner
Through: Mr. Harsh Kumar & Ms. Shikha
Gogoi, Advocates (M-8076772278).

versus

PREETI ARORA Respondent
Through: None.

18 WITH
+ **C.R.P. 51/2021 & CM APPLs. 21680/2021 & 21681/2021**

SHEELA DEVI @SHEELA BANSAL Petitioner
Through: Mr. Harsh Kumar & Ms. Shikha
Gogoi, Advocates.

versus

CHANDAN ARORA AND ANR. Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

C.R.P. 49/2021

2. The present petition has been filed by the Petitioner challenging the order dated 6th July 2021 passed by the ACJ-cum-CCJ-cum-ARC (East), Karkardooma Courts, vide which the leave to defend application pending before the Additional Rent Controller (*hereinafter*, "ARC") in the

Petitioner's case has been adjourned to 15th November 2021. The brief background to this petition is that the Petitioner- landlady, had filed an eviction petition against the Respondent-tenant, in respect of the shop admeasuring 8ft*16ft in dimensions, bearing Shop no.7, F-14 A, Parwana Road, Jagatpuri, Delhi- 110051, on the ground of *bona fide* necessity under Section 14(1)(e) of the Delhi Rent Control Act, 1958. In the said eviction petition, notice is stated to have been issued on 30th November 2019, post which, the Respondent filed an application for leave to defend.

3. The grievance of the Petitioner in this petition is that the leave to defend application of the Respondent in this matter is not being heard, and is continuously being adjourned from time to time. On 25th February, 2020, the matter i.e., **RC/ARC No. 136/19**, was adjourned to 1st May, 2020 for the Respondent to file a rejoinder. On 22nd July, 2020, time was again granted for filing of the rejoinder to the reply. On 30th July, 2020, the matter was again adjourned at the request of the Id. Counsel for the Respondent. On 17th August, 2020, the matter was adjourned due to the circular dated 15th August, 2020 of the High Court. On 19th September, 2020 as well, none appeared for the Respondent and the matter was adjourned. On 22nd September, 2020, none appeared for the Respondent and the matter was again adjourned. Thereafter on 19th January, 2021, time was given to the Respondent to file an additional rejoinder to the additional reply. Finally, on 6th July, 2021, the matter is stated to have been again adjourned to 15th November, 2021 owing to the circular of the Delhi High Court.

4. Mr. Harsh Kumar, Id. Counsel appearing for the Petitioner refers to the previous judgment of this Court passed by a Id. Single Judge on 16th July, 2020, in **CM(M) 379/2020** titled **Sheela Devi @ Sheela Bansal v.**

Preeti Aroraa wherein specific orders were passed by the Court that the leave to defend application would be heard by the ARC, by fixing a date on 22nd July, 2020. However, he submits that despite said judgment having been passed, the matter is being adjourned time and again at the request of the Respondents, and circulars of the High Court are being cited for not hearing the leave to defend application. The Petitioner has urged that the leave to defend application is a matter which is of an urgent nature as the landlady has been waiting endlessly for getting the said application heard.

5. This Court has perused the orders of the ARC in **RC/ARC No. 136/19**. This Court has also perused the judgment dated 16th July 2020, passed by the Id. Single Judge where it has clearly been directed that a date would be fixed for hearing the matter by the ARC on the leave to defend application on 22nd July, 2020. Once such a specific order was passed in this particular case, there was no occasion for the ARC to continue to adjourn the matter citing the circulars of the High Court, as also giving repeated adjournments to the Respondent on the ground that no adverse orders should be passed during the pandemic. Such orders would be contrary to the letter and spirit of the judgment passed by the Id. Single Judge of this Court on 16th July, 2020.

6. Further, the leave to defend application which is continuously being adjourned arises out of an eviction petition wherein the landlady has sought eviction of the tenant on the ground of *bona fide* necessity under Section 14(1)(e) of the Delhi Rent Control Act, 1958. Therefore, it cannot be said that matter is not of an urgent nature, and it ought to be heard by the ARC in an expeditious manner. The order sheets of the trial court clearly show that on some ground or the other, adjournments are being granted in the matter

without any valid justification.

CRP 51/2021

7. This petition also arises out of another leave to defend application in respect of the shop admeasuring 8ft*16ft in dimensions, bearing Shop no.6, F-14 A, Parwana Road, Jagatpuri, Delhi- 110051.

8. This Court has perused the orders of the ARC in **RC/ARC No. 137/19**. In this petition as well, vide a judgment of the Id. Single Judge of this Court dated 16th July 2020 in **CM(M) 380/2020**, titled **Sheela Devi @ Sheela Bansal v. Chandan Arora and Anr.**, specific orders were given by the Court that the leave to defend application would be heard by the ARC by fixing a date on 22nd July 2020. Thereafter, after repeated adjournments the application was heard and vide order dated 22nd September, 2020, the leave to defend application was allowed by the Id. ARC. The Id. ARC held that:

“ In view of the above discussion, in the considered opinion of this Court, the respondent/tenant has raised a triable issue as to whether the petitioner owns 14 shops and not five as stated in the petition. Accordingly, the present application is allowed, but on the above sole ground

Respondent-tenant to file a reply to the present eviction petition within the statutory limitation period with a copy to the Petitioner/landlord. To come for further proceedings.”

9. The Petitioner moved an application seeking review of the said order under order XLVII of the CPC, on 5th October 2020, which was listed for 19th January 2021. However, the same has not been heard and is being adjourned from time to time. The same is now, vide the impugned order dated 6th July 2021, listed on 15th November 2021.

10. In respect of both these matters, it is pertinent to note that the Full Court has recently passed a resolution dated 22nd July 2021 bearing no. **438/RG/DHC/2021** stating that all the Trial Courts and District Courts in Delhi would be taking up all matters for hearing through video conferencing. A circular to this effect has been issued today. The said circular reads:

“ In continuation of this Court’s Office Orders No. 256/TG/DHC/2021 dated 08.04.2021, No. 2/R/RG/DHC/2021 dated 19.04.2021, No. 5/R/RG/DHC/2021 dated 23.04.2021, No. 6/R/RG/DHC/2021 dated 14.05.2021 and No. 372/RG/DHC dated 28.06.2021, the Hon’ble Full Court has been pleased to order that with effect from 24.07.2021 all the judicial officers shall endeavour to take up all matters of their respective courts through videoconferencing. The weblinks of all the courts shall remain functional throughout the working-hours.

The Hon’ble Full Court has further been pleased to observe that physical hearings in District Courts in Delhi may be resumed in a restricted manner w.e.f. 16.08.2021 on an experimental basis, subject to further orders based on evaluation of the situation of the pandemic in the NCT of Delhi.”

11. Accordingly, owing to the said Full Court resolution, as also the previous judgments of this Court dated 16th July, 2020, the following directions are issued:

- (i) The concerned ACJ-cum-CCJ-cum-ARC (East), Karkardooma Courts, Delhi, shall ensure that both these matters are taken up on

17th August 2021, and both the leave to defend application and the review application are decided after hearing both the parties, in a time bound manner.

- (ii) The Petitioners are directed to appear before the ACJ-cum-CCJ-cum-ARC (East), Karkardooma Courts on 17th August, 2021 for arguments on the respective applications in both the matters. An intimation shall be sent to the Id. Counsel for the Respondents in both these matters, by the Id. Counsel for the Petitioner as also by the concerned District Judge, as to hearing on the said date.
- (iii) No unnecessary adjournments shall be granted in these matters, and in any event, both these applications shall be heard and disposed of within a period of two months i.e. by 15th October, 2021.

12. With the above directions, the present petitions are disposed of. All pending applications are also disposed of. Copy of this order be sent to ACJ-cum-CCJ-cum-ARC (East), Karkardooma Courts. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH
JUDGE

JULY 22, 2021

Rahul/Ak