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* IN THE HIGH COURT OF DELHI AT NEW DELHI
Date of decision: 12th January, 2022

+ C.R.P. 51/2020 & CM APPL. 10690/2020

RAM KISHAN

..... Petitioner

Through: Mr. Dhanesh Relan, Mr. Paritosh
Dhawan, Mr. Jatin Bhatia and Mr.
Brinda Ajmani, Advocates.

versus

SATYA VIR SINGH (SINCE DECEASED)

THR LRS & ANR.

..... Respondents

Through: Mr. Puneet Goel, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed challenging the judgment dated 7th February, 2020 passed by the Ld. SCJ/RC, Karkardooma Courts, Delhi (*hereinafter "Trial Court"*) in **RC/ARC No.345/2016** titled **Sh. Ram Kishan v. Sh. Satyavir Singh & Anr.** By the impugned judgment, the petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 (*hereinafter "DRC Act"*) filed by the Petitioner against the Respondent has been dismissed by the Trial Court.
3. The Petitioner – Shri Ram Kishan and Respondent No.2 – Mr. Brij Mohan are brothers, and sons of Late Shri Maithali Ram and Late Smt. Devki Rani. The case of the Petitioner is that the Respondent No.1 – Late Shri Satyavir Singh is the tenant in the half portion admeasuring 37-1/2 sq. yards of the property identified as Property No.-B-5, Aruna Park, Shakarpur, Delhi (*hereinafter "suit property"*), which is a residential property. Initially, vide order dated 23rd March, 2012, the Trial Court granted leave to



defend to the tenant. Thereafter, the matter proceeded before the Trial Court.

4. Detailed evidence has been led on behalf of both the parties. Vide the final judgment dated 7th February, 2020, the Trial Court has dismissed the petition on two primary grounds. First, the suit property has been identified by the Petitioner to be located in Shakarpur, whereas Shakarpur and Mandawali Fazalpur are two different localities. Hence, the Petitioner has failed to prove the ownership of the suit property. Secondly, the Trial Court has held that there is no landlord-tenant relationship between the parties. The entire discussion on the evidence led before the Trial Court is in the following paragraphs of the impugned judgment dated 7th February, 2020.

*“6. The documents of title of the predecessors-in-interest of the petitioner are Ex.PW-2/C (Colly). The document first in time is a sale deed whereby Nanak Singh had sold property identified as ‘plot of land no.7, area 150 sq.yds, out of khasra no.477 situated in Aruna Park, Block-B in area of village **Mandawali, Fazalpur**, illaqua Shahdara, Delhi state’. It is this identity of property which the petitioner maintains to be his, during alleged successive sales till it was acquired by Mithali Ram, deceased father of the petitioner.*

*6.1 In the petition, the petitioner has identified the premises to be B-5, (Old Municipal No.B-7 out of plot no.7) Aruna Park, **Shakarpur**, Delhi-92.*

6.2 Shakarpur and Mandawali Fazalpur are two different localities. Thus, the petitioner fails to prove that the documents produced by him pertain to the premises.

7. There is no evidence on record to prove the landlord-tenant relationship viz. rent agreement,



rent receipts, any record of payment of rent by the respondent to the petitioner such as statement of bank account of the petitioner etc. Thus, the existence of landlord-tenant relationship between the petitioner and the respondent is not proved to the satisfaction of the court.

7.1 The Ld. Counsel for the petitioner had argued that the house tax in respect of the premises was paid for the petitioner. Payment of house tax by any person is no evidence of his ownership of the property in respect of which such tax is paid.

7.2 The witness-PW-3 who is Section Officer with the MCD and who produced the house tax record deposed that the ledger folio no.65/291 was in respect of property B-5, Shakarpur, Delhi and is in name of Mathali Ram. Whereas the document Ex.PW-1/A which is produced by the said witness purporting to be photocopy of pertinent ledger folio records the name of the assessee to be Madalli Ram. The original ledger was not produced by the said witness nor the documents on the basis on which the name of the assessee or/and his relation with the property assessed was determined for the purposes of imposing tax liability of Madalli Ram was produced. The said witness fails and the document produced are of no probative value.”

5. Mr. Relan, Id. Counsel for the Petitioner, submits that the identity of the property was never in question in these proceedings. Reliance is placed upon a reply dated 28th May, 2011 given by the Respondent No.1, to the legal notice dated 17th May, 2011 issued by the Petitioner, wherein the Respondent No.1 clearly claims ownership in the property located in Shakarpur, Shahdara, Delhi. According to Mr. Relan, the Respondent No.1



never challenged the identity of the property, in the said reply. Thus, the Court could not have held that these are two separate properties, and that the ownership thereof has not been proved by the Petitioner. He further submits that the Trial Court has clearly gone beyond the mandate of Section 14(1)(e) of the DRC Act itself.

6. On the other hand, Mr. Goel, Id. Counsel for the Respondents, submits that the documents, which have been placed on record including the General Power of Attorney (*hereinafter "GPA"*), describes the seller, Smt. Maya Devi, from whom the Petitioner's parents purchased the suit property, as a resident of B-7, Aruna Park, Shakarpur, Delhi. However, he submits that the sale is of the property in Mandawali Fazalpur, Delhi. It is submitted that even the sale deed shows that the property, which is being sold is at Mandawali Fazalpur, and not Shakarpur. He further submits that Mandawali is 5 km away from Shakarpur.

7. This Court has perused the records. Firstly, in the opinion of this Court, the impugned judgment passed by the Trial Court is extremely cryptic. The same specifically records that several witnesses had deposed on behalf of the parties, and a large number of documents were also exhibited. However, there is no analysis of the evidence adduced by the parties at all. This Court is of the opinion that if there was a dispute as to the identity of the suit property, the Trial Court ought to have discussed the evidence on record, in order to arrive at the conclusion as to whether the two properties are the same, or not.

8. Secondly, the Trial Court also arrives at the finding that there is no document to prove the existence of landlord-tenant relationship between the parties. This finding, as well, has been recorded in merely five lines in



paragraph 7 of the impugned judgment, extracted hereinabove, without discussing the oral evidence or the evidence by way of affidavit filed by the parties.

9. The Court has perused the GPA dated 10th December, 1986 by which one Smt. Maya Devi had sold the property to the Petitioner's parents. The same described Smt. Maya Devi as a resident of 'B-7, Aruna Park, Shakar Pur, Delhi-110092'. In the recital identifying the property which has been sold, it is clearly stated that the property is a residential house bearing -

'House no.7, measuring 75 Sq. Yards 22.5 feet x 30 feet out of Khasra No.477 situated at abadi of Aruna Park, Block No.-B, in the village of Mandawali Fazalpur, Village Shahdara, Delhi'.

10. The property mentioned above can be easily described as B-7, Aruna Park, Shakarpur. It cannot, therefore, be conclusively stated that the identity of these two properties i.e., the suit property and the property sold as per the sale deed, are different. One has to bear in mind the fact that prior to urbanization of colonies in Delhi, no proper plot numbers were allotted. Khasra numbers and area thereof were also quite blurred, which is a fact of which judicial notice can be taken, owing the various litigations that come before courts relating to Khasra numbers and identities of properties.

11. In the above context, it is also relevant to point out that in the reply dated 28th May, 2011, to the legal notice issued by the Petitioner, the Respondent No.1 states and identifies the property very clearly as under:

"That our client does not know a person namely Ram Kishan S/o Late Sh. Mathali Ram R/o 4879, Laddo Ghati, Paharganj, Delhi, and it is also pertinent to mention here that the property No.B-5, Aruna Park, Shakarpur, Shahdara, Delhi had been purchased by the wife of our client on 20.06.1988 from Sh. Manni Ram S/o Sh. Ganna



Nand Pant and since then our client has been residing at the above captioned property being the husband of the owner of the property namely Smt. Pushpa Devi W/o Sh. Satya Vir and during this entire period, no one raised any objection on the possession of our client and no such issue was ever arise as your client is trying to create problems in the peaceful and happy life of our client by sending this notice which is totally based on false, frivolous and bogus facts which have no feet and have no value in the eyes of law before any court or any authority and the act of your client makes him liable for the damages.

Parawise reply:-

- 1. That the contents of para No.1 of your notice are wrong and denied. It is wrong and denied that the parents of your client Late Sh. Maithali Ram and his wife Late Smt. Devki Rani were the owners/landlords of the property built on a plot measuring 75 sq. yds. Bearing No.7, out of Khasra No.477 at abadi Aruna Park, Block-B, Village Mandawali Fazalpur, Illaqa Shahdara, Delhi which is known as B-5, Aruna Park, Shakarpur, Shahdara, Delhi which they purchased vide title deeds dated 10.12.1986. It is submitted that the wife of our client namely Pushpa Devi purchased the property i.e. House No.B-5, Aruna Park, Shakarpur, Delhi on 20.06.1988 from Sh. Manni Ram S/o Sh. Ganna Nand Pant and since then our client has been residing at the above captioned property. **However, it is submitted that the property No.B-5, Aruna Park, Shakarpur, Delhi previously known as Plot No.7 and the same was part of the Khasra No.477 in the abadi of Aruna Park, Block-B, Village Mandawali Fazalpur, Illaqa, Shahdara, Delhi.**”*



12. The Trial Court would thus have to peruse the basis on which title has been claimed by the Petitioner, as also, on the basis of which the title has been claimed by the Respondent, who is alleged to have purchased the property in 1988 from one Shri Manni Ram. The said GPA dated 20th June 1988 executed by Sh. Manni Ram in favour of Smt. Pushpa Devi refers to a sale deed dated 23rd September 1969 executed by Shri Nanak Singh S/o Jhanda Ram. The same sale deed dated 23rd September 1969 is also relied upon by the Petitioner to trace back his title to Sh. Manni Ram. Thus, the identity of the property does not appear to have been in issue in the eviction petition. These documents ought to be examined in detail by the Trial Court, in order to arrive at a finding as to whether the Respondent No.1 has any right to retain the said property as also whether there is in fact any dispute as to the identity of the property at all. If there is no such dispute relating to the identity of the suit property, the Trial Court shall proceed in the matter, in accordance with law, under Section 14(1)(e) of the DRC Act.

13. The impugned order is accordingly set aside and the matter is remanded back to the trial court. The Trial Court shall now hear the final arguments once again on the basis of the pleadings and the evidence on record, and decide the matter, within six months. Parties shall appear before the Trial Court on 2nd February, 2022.

14. The present petition is allowed in the above terms. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

JANUARY 12, 2022/dk/ad