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

% Judgment delivered on: 20.01.2023

+ **CM(M) 930/2019 & CM APPL. 27852/2019-STAY**

SAMEER SETH Petitioner

versus

VINITA JAIN Respondent

AND

+ **CM(M) 934/2019 & CM APPL. 27909/2019-STAY**

SAMEER SETH Petitioner

versus

VINITA JAIN Respondent

Advocates who appeared in this case:

For the Petitioners : Mr.K.K. Srivastava, Adv.

For the Respondent : Mr.Sunil Lalwani, Adv.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. The petitioner challenges the order dated 09.04.2019 passed in Eviction Petition No.480957/2016 whereby an application filed by the

petitioner seeking placing on record the subsequent events which have been dismissed.

2. Mr.Srivastava, learned counsel for the petitioner submits that the respondent landlady had concealed the material facts in respect of one shop bearing property No.3858 Gali Kayasthan, Charkhewalan, Chawri Bazar, Delhi 11006 shortly prior to filing of the petition under Section 14(1)(e) of the Delhi Rent Control, Act, 1957.

3. Learned counsel submits that said fact came to the knowledge of the petitioner /tenant in the month of June 2018 and after some enquiry, copy of the registered sale deed dated 10.07.2018 executed by the respondent landlady was also obtained. The petitioner filed an application seeking to place the sale deed on record and to show to the learned Trial Court that there is no *bona fide* requirement of the respondent as is clear from the additional accommodation which was available to the respondent and which was sold.

4. Learned counsel submits that the Trial Court overlooked the registered sale deed and did not take into consideration two aspects which would arise due to the said sale, one being that there was a blatant concealment of fact and second being that the respondent/landlady was having additional accommodation and as such, there was no *bona fide* requirement with respect to the subject suit premises.

5. Learned counsel for the petitioner submits that overlooking these two relevant aspects, the learned Trial Court passed the impugned order.

6. *Per contra*, Mr.Lalwani, learned counsel appearing for the respondent /landlady submits that admittedly, sale deed was executed prior to filing of the petition for eviction under Section 14(1)(e) read with Section 25B of Delhi Rent Control Act, 1957 and thus, has no impact on the *bona fide* requirement *qua* the subject premises.

7. Mr.Lalwani submits that in reply to the said application, the respondent had categorically submitted that the respondent in fact had attempted to use the sold premises for the purpose of carrying business, but finding that unviable and not suitable for the business that she had intended to carry on, the respondent/landlady was left with no choice but to conduct the sale of the said premises.

8. Mr.Lalwani submits that since clear explanation was already provided, the reason for challenge to the impugned order is unsustainable.

9. This court has considered the arguments placed by the learned counsel as well as gone through the record. By way of the impugned order, the learned Trial Court has considered the arguments put-forth by the counsel for the petitioner herein and has decided the same on relevant and cogent grounds.

10. The most relevant aspect to be considered is that whether there is any concealment at all by the respondent landlady by not disclosing this fact which occurred prior to filing of the petition.

11. The answer to the above question is obvious no for the reasons that the *bona fide* requirement of landlady shall be tested on the day of filing of the petition and not prior thereto.

12. There could be a possibility of the tenant having an objection to such sale provided the same took place after the eviction petition has been filed and there is a deliberate concealment.

13. In the present case, no such facts arise.

14. Moreover, the said issue in any case would not have an impact upon either of the parties for the reason that the respondent /landlady is the master of *bona fide* requirement of any shop which is available to her and it is not dependent upon the petitioner/tenant to dictate as to how the respondent landlady ought to perceive her *bona fide* requirement in respect of any shop, much less, the subject suit premises.

15. In that view of the matter, this Court is of the considered view that there is no merits in the petitions and the petitions stand dismissed with no order as to costs.

TUSHAR RAO GEDELA
(JUDGE)

JANUARY 20, 2023
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