



\$~25

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

Date of Order: 14.12.2023

+ **RC.REV. 173/2021 and CM No.46001/2021**

JEET SINGH

..... Petitioner

Through: Mr. Nikilesh Ramachandran, Mr. Shubham Seth, Mr. Anuj Panwar, Ms. Archana Gupta, Mr. Bharat Bhushan Gupta and Mr. Suresh Singh Negi, Advocates

versus

SIR SOBHA SINGH AND SONS PVT LTD

..... Respondent

Through: Mr. Anand Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing]

TARA VITASTA GANJU, J.: (ORAL)

1. Notice in this Petition was issued on 04.04.2022.
2. Learned Counsel appearing on behalf of the Respondent/landlord draws the attention of the Court to orders dated 28.07.2022 and 25.05.2023 when a submission was made that the present petition is not maintainable, as it arises out of proceedings passed under Section 14(1)(h) of the Delhi Rent Control Act, 1958 [hereinafter referred to as the 'DRC Act'] and not under Section 14(1)(e) of the DRC Act.
3. On 25.05.2023, it was averred on behalf of the Petitioner/tenant that he wishes to move an appropriate application to implead the legal representatives of the Petitioner, since the Petitioner has passed away.
- 3.1 On that date as well, learned Counsel for the Respondent/landlord had



made the submission that this petition was not maintainable.

4. Subsequently, there have been two dates of hearing. On both occasions i.e. on 24.08.2023 and 02.11.2023, an adjournment was sought by the Petitioner/tenant.

5. In view of the legal issue raised by the Respondent/landlord, this Court had on 02.11.2023 directed the parties to file their respective synopsis. Written synopsis has been filed by the Respondent/landlord, however, no written synopsis has been filed by the Petitioner.

6. No Application for impleadment has been filed till today.

7. Learned Counsel for the Respondent/landlord once again reiterates his contentions that this petition being filed under Section 25 B(8) is not maintainable since it arises from an Eviction Petition under Section 14(1)(h) of the DRC Act and not Section 14(1)(e) as is requisite.

8. Learned Counsel for the Petitioner/tenant on the other hand once again requests for an adjournment.

9. The record shows that an Eviction Petition was filed by the Respondent/landlord under Section 14(1)(h) of the DRC Act which was listed and numbered as Eviction Petition RC 5520 of 2016 on 11.05.2023.

9.1 The Eviction Petition filed before the Trial Court under Section 14(1)(h) of the DRC Act has not however, been placed on record. However, this is not a fact that is disputed. Annexed as P-3 is some other Eviction Petition under Section 14(1)(e) of the DRC Act. It is likely that Notice was issued based on this document.

10. By order dated 27.07.2016, an Application under Order XII Rule 6 of the CPC filed by the Respondent/landlord was allowed by the Trial Court in



RC 5520 of 2016 and a direction for recovery of the tenanted premises bearing no. K-7, third floor, Sujan Singh Park, New Delhi-110 003 [hereinafter referred to as the 'demised premises'] was passed by the Trial Court.

11. Aggrieved by this order of 27.07.2016, the Petitioner/tenant filed an appeal before the Rent Control Tribunal. A copy of the appeal is annexed at Annexure P6.

12. The appeal was dismissed by the Rent Control Tribunal on 30.09.2021 which order has been impugned in the present Petition.

13. Learned Counsel for the Respondent, has made two submissions. Firstly, that Section 25-B prescribes a 'special procedure' for the disposal of applications for eviction on certain specified grounds to be dealt with in accordance with the procedure specified in said sections covered in Chapter IIIA. Secondly, that Section 14(1)(h) of the DRC Act, is not envisaged under the provisions of Section 25B(1) and as such any order passed in proceedings, beyond the grounds specified in Section 25B(1), cannot be challenged by invoking any of the provisions of Chapter IIIA of DRC Act as appeals are not maintainable under Section 25 B(8).

14. This Court finds force in these submissions, Chapter IIIA is a special chapter in DRC Act which provides for summary procedure in the case of certain applications. Section 25 A of the DRC Act provides that the provisions of Chapter IIIA have an overriding effect on the other provisions contained in the Act or any other law in force.

14.1 Section 25 B of the DRC Act provides for a special procedure in the cases of recovery of possession under Section 14(1)(e) of the DRC Act and



along with Sections 14A, 14B, 14C and 14D of the DRC Act as follows :-

“25.B Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.-

(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A or under section 14B or under section 14C or under section 14D shall be dealt with in accordance with the procedure specified in this section.”

[Emphasis supplied]

14.2 A plain reading of the foregoing provisions makes it clear that the summary procedure under Chapter IIIA is only applicable to certain applications under the DRC Act. Section 14(1)(h) of the DRC Act is not one of the grounds to which the summary procedure applies.

14.3 Therefore, the procedure for a Revision Petition under Section 25(B)(8) of the DRC Act cannot be made applicable to eviction proceedings arising out of Section 14(1)(h) of the DRC Act.

15. This Court is supported in its view by judgments of the Coordinate Benches of this Court in the matter of *Neelam Dubey v. Rani Pandey*¹ and *Ravinder Jeet Singh v. Kanta Vadheara and Anr.*².

16. In the present case, the Petitioner is aggrieved by the order/judgment dated 30.09.2021 passed by Ld. Rent Control Tribunal, arising out of an appeal preferred by the Petitioner under Section 38 of the DRC Act.

17. As stated above, an order arising out of appeal under Section 38 of the DRC Act is not amenable to a challenge under the grounds specified in Chapter IIIA of the DRC Act. These provisions do not contemplate an order passed for recovery of possession on the grounds specified in Section

¹ 2019 SCC OnLine Del 9133

² 2018 SCC OnLine Del 13329



14(1)(h), nor provide for any revision, against an order arising out of an appeal under Section 38 of the DRC Act.

18. Thus, an order, arising out of an appeal filed under Section 38 of the DRC Act is thus, not amenable to the revisionary jurisdiction of this Court as set forth under Section 25 B(8) of the DRC Act.

19. In view of what has been stated above, the present Revision Petition is not maintainable and is dismissed.

19.1 Pending Applications also stands disposed of.

20. Liberty is, however, granted to the Petitioner to challenge the order that he is aggrieved with, in accordance with law.

21. File be consigned to Record.

TARA VITASTA GANJU, J

DECEMBER 14, 2023/yg

Click here to check corrigendum, if any