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

Date of decision: 24.11.2023

+ **CM(M) 1794/2023 & CM APPL. 56812/2023**

ANIL KUMAR JHA

..... Petitioner

Through: Mr. S. K. Bhandari, Ms. Neetu Gupta
and Mr. Tejveer Sharma, Advts.

versus

SHANKAR LAL (SD) THROUGH LRS.

..... Respondent

Through: None.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition impugns the order dated 03.10.2023 passed by the Additional Civil Judge acting as Additional Rent Controller (North-West), Rohini Courts, Delhi in RC ARC No 5337/16, titled as **Shankar Lal (Deceased through Lr's) v. Anil Kumar Jha** ('Trial Court') whereby the application of Petitioner filed under Order VI Rule 17 Code of Civil Procedure, 1906 (CPC) was dismissed by the Trial Court.

1.1. The Petitioner is the respondent-tenant and the original Respondent i.e., late Shri Shankar Lal (since deceased) is the landlord, who filed an eviction petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 ('DRC Act') before the Trial Court.



1.2. The landlord Sh. Shankar Lal passed away and his legal representatives were brought on record before the Trial Court. In this petition, the legal heirs have been impleaded as Respondents.

1.3. The Respondents are the owners of the entire property bearing house No.H-65, JJ. Colony, Wazirpur, Delhi-110052 ('building'). The tenanted premises comprises of the shop situated at ground floor (G.F) and third floor (3rd) of the said building ('tenanted premises'). Late Shri Shankar Lal had filed the eviction petition for his bona fide need for the said tenanted premises.

1.4. After evidence was led by the parties, the matter was set down for final arguments by the Trial Court on 01.10.2018.

2. Learned Counsel for the Petitioner admits that an application under Order VI Rule 17 of CPC was filed at the stage when the matter was listed for final arguments.

2.1. He states that the application has been filed to bring on record the subsequent facts with regards to the (i) death of the original Respondent/ landlord, (ii) death of one of his legal heir i.e., Mr. Mukesh, (iii) about the marriage of Ms. Mamta, i.e., daughter of the deceased Landlord and her shifting to her matrimonial residence; and (iv) the factum of acquisition of additional properties by the daughter i.e., Ms. Kamlesh and daughter-in-law i.e., Ms. Maya Devi.

2.2. He states, in addition, the Petitioner also wants to place on record the fact with respect to the vacation of the second (2nd) floor of the same building and the availability of the said floor to the legal heirs of the deceased landlord.

2.3. He states that since these are subsequent facts, the Petitioner should



be permitted to file an additional affidavit to bring the said facts on record. He relies upon a judgment of this Court in **CM (M) 1376/2019** decided on 18.09.2019 in the case of ***Kashi Ram & Ors. vs. Anita Garg.***

3. This Court has heard the learned counsel for the Petitioner and perused the record.

4. These proceedings emanate from an eviction petition filed by the deceased Landlord, late Sh. Shankar Lal under Section 14(1)(e) of the DRC Act for seeking recovery of the tenanted premises.

5. The application of the tenant seeking leave to defend was allowed in the year 2014 and, thereafter, the parties were directed to lead the evidence. The eviction petition remained at the stage of recording evidence from the year 2015 to 2017 and was thereafter, set down for final arguments on 01.10.2018.

6. After this advance stage, the Petitioner herein filed an application on 21.09.2020 for bringing on record the aforesaid facts.

7. The Trial Court vide impugned order dated 03.10.2023 has dismissed the said application and the operative portion of the aforesaid order reads as under:

“Heard. Perused.

This is an eviction petition based on bonafide requirement. In his petition, the petitioner has disclosed multifarious needs – both commercial and residential, for himself as well as of his dependant family members. The impact of vacation of second floor of the property by another tenant on the bonafide requirement is a matter of argument. Similarly, the deaths of petitioner and one of his sons is a matter of record and its effect can also be considered at the stage of final arguments. With regard to the question of acquisition of property by the petitioner's family members, no material has been brought by the respondent to substantiate the same. In fact, in case of property purportedly acquired by Kamlesh, even the description of such property has not been disclosed. The pleadings are vague and cannot be made the basis of any amendment. Even otherwise, the petitioner has filed the present petition for his own bonafide requirement as well as of his dependant family members and he cannot be expected to utilize the property acquired either by his widowed daughter-in-law or daughter towards the needs of other family members. This is not the purport of



Section 14 (1) (e) DRCA. Besides, these so called properties are located elsewhere and not where the suit property is located for being considered as a suitable alternative accommodation. In any case, same is also a matter of argument.

Matter is almost 10 years old and at an advanced stage i.e. final arguments. The respondent has nowhere stated in his application as to the date on which he became aware about the so called "subsequent" events. Allowing any amendment at this stage would be counterproductive as the matter would have to be relegated back to the stage of pleadings. The relevant contentions of the respondent can anyway be addressed and assessed during final arguments. Other than this, one more ground is sought to be added in the amended WS stating that a single petition for two tenancies is not maintainable. This is not a "subsequent" event and hence stands rejected.

Under such circumstances, no amendment is warranted. The respondent, however, is at liberty to incorporate such events in his final arguments.

Application stands disposed off accordingly.

Re-notify for final arguments on 31.10.2023."

(Emphasis supplied)

8. This Court finds that the impugned order is well reasoned and this Court finds no ground to interfere with the said order in its supervisory jurisdiction under Article 227 of the Constitution of India. It is pertinent to note that learned counsel for the Petitioner during the course of arguments has admitted that no details/particulars of the alleged properties acquired by the daughter of the deceased Landlord or the daughter-in-law of the deceased Landlord are available with him.

8.1. Further the fact with respect to the death of the son of the deceased Landlord and the marriage of the daughter of the deceased Landlord are facts, which are not disputed by Respondents; as rightly observed by the Trial Court the said facts can be urged by the Petitioner during the final arguments and the relevance of the same will be considered at the time of the final adjudication.

8.2. Similarly, with respect to the vacation of the second-floor (2nd)



property by another tenant i.e., Sh. Ashok Sharma, the said factor has also been duly taken note of and the explanation offered by the Respondents that they have been unable to occupy the said floor on account of obstructions created by the Petitioner herein has been recorded. The Respondents in their reply filed to the said application have narrated sufficient grounds for the non-occupation of the said floor.

9. This Court finds no infirmity with the order of the Trial Court in as much as the Trial Court has sufficiently safeguarded the interest of the Petitioner herein and recorded that the effect, if any, of that these admitted facts will be given due consideration at the time of the final adjudication.

9.1. This Court is of the opinion, that considering the fact that this eviction petition for the bona fide requirement of the deceased landlord was filed in the year 2013 and, therefore, the filing of the said application by the Petitioner after the evidence stood concluded in 2018, when the matter was listed for final arguments, itself is a sufficient ground for not entertaining the said application. The evidence was concluded on 13.08.2018 and the matter was listed for final arguments on 01.10.2018. The application seeking amendment was filed on 21.09.2020.

10. The application filed by the Petitioner proposing the amendments is devoid of the details of the dates on which the subsequent events occurred and more importantly, the dates on which the said facts came to the knowledge of the Petitioner. The application for amendment deserves to be dismissed for lack of material particulars. Permitting the Petitioner to file an additional affidavit at this stage would obviously be counter-productive and would lead to relegating back the matter to the stage of pleadings has been rightly held by the Trial Court.



11. Furthermore, the reliance placed by the Petitioner on the judgment delivered in the case of ***Kashi Ram*** (Supra) is not attracted to the facts of this case. In the said case the suit was at the stage of recording of evidence and the Court granted limited opportunity to the tenant therein to plead the subsequent facts by way of evidence affidavit. In the present facts of the case, even in the said judgment the Court cautioned the tenant from obstructing the proceedings by filing any further application for amendment.
12. This Court, therefore, does not find any infirmity in the order of the Trial Court dated 03.10.2023. No error exists warranting supervisory correction, in exercise of Article 227 jurisdiction of this Court.
13. In the facts of this case, further the learned Trial Court is requested to expeditiously decide the eviction petition listed before it on 08.12.2023 preferably within two (2) months from the said date.
14. For the reasons stated above, this petition is completely devoid of merit and is accordingly dismissed with the aforesaid direction. Pending applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 24, 2023

Aks/ms

Click here to check corrigendum, if any