



\$~8

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

+ **RC.REV. 174/2023**

SMT. CHANDRA MANI (DECEASED)

THROUGH LRS

.....Petitioner

Through: Mr. Kunal Yadav, Advocate

versus

SH. VISHAL VERMA

.....Respondent

Through:

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

22.08.2024

%

1. The present revision petition is filed under section 25-B (8) of Delhi Rent Control Act, 1956 to impugn the order dated 24.03.2023 passed by the court of Sh. Deepak Sherawat, SCJ-cum-RC, Shahdara, Karkardooma Courts, Delhi whereby the application for leave to defend file on behalf of the respondent was allowed.

2. The petitioner filed an eviction petition bearing RC/ARC No.1023/16 titled as **Chandra Mani V Vishal Verma** on the ground of personal *bona fide* requirement as per section 14(1)(e) of Delhi Rent Control Act, 1958 against the respondent. The respondent after service of summons as per the Third Schedule filed an application for leave to defend which was ordered to be allowed vide order dated 24.03.2023 which is under challenge in the present petition.

3. The counsel for the petitioner after referring the para no.10 of the order dated 24.03.2023 stated that the trial court has passed the impugned



order on wrong premises of the law particularly, in view of the judgment passed by the Supreme Court in Civil Appeal no.8028/2022 (arising out of SLP(C) 18654/2018) titled as **Mohammed Sadiq V Deepak Manglani** decided on 01.11.2022.

4. The perusal of the record reflects that the petitioner has claimed the possession of the tenanted premises by pleading that the grandson of the petitioner who was studying at that time and as such, the petitioner required the tenanted shop to start the business for his grandson and the said submissions on behalf of the petitioner was not accepted by the trial court in the impugned judgment. The para no.10 of the impugned order reads as under:-

10. However, as far as bona fide need of the petitioner is concerned, the respondent has correctly raised the issue that her grand son Sh. Sachin Sharma is still studying and does not require the tenanted shop to start his business. The petitioner has not clarified as to how her grandson will do business while continuing his studies. The petitioner has not placed on record any document to show that her grandson has done his graduation. Moreover, in her reply/counter affidavit, petitioner has stated that the tenanted shop is required by her for herself, her family and her grandson. Consequently, the genuineness of the need of the petitioner in respect of the tenanted premises is a triable issue. Leave to defend is granted.

5. The counsel for the petitioner during the course of the arguments referred **Mohammed Sadiq V Deepak Manglani** (*supra*) wherein it was observed that there was no bar for someone who is pursuing higher study to start a business and to claim the tenanted premises for this requirement.

6. As agreed, upon between the parties, the impugned order dated 24.03.2023 is set aside and the case is remanded back to the trial court for



fresh consideration of application for leave to defend along with affidavit after considering all the facts and issues to be raised by the petitioner and the respondent and the case laws cited by the parties.

7. It is expected that the trial court shall make every possible endeavour to dispose of the application for leave to defend afresh within a period of 02 months from the date of receipt of this order.

8. The present petition along with pending application stands disposed of.

9. The parties are directed to appear before the trial court on 06.09.2024 as already fixed.

10. A copy of this order be sent to the trial court for information and compliance.

DR. SUDHIR KUMAR JAIN, J

AUGUST 22, 2024

j/tk