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

+ **W.P.(C) 7354/2024 & CM APPL. 30704/2024**

RANI DEVI

..... Petitioner

Through: Ms. Renu, Ms. Samishti Solemon and
Mr. Kamlesh Kumar Mishra,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Ms. Rachita Garg and Mr. Agam
Rajput, Advocates for R-1.
Ms. Aakriti Garg, Advocate for Mr.
Parvinder Chauhan, Advocate for
DUSIB.

+ **W.P.(C) 7402/2024 & CM APPL. 30915/2024**

SANJAY KUMAR

..... Petitioner

Through: Ms. Renu, Ms. Samishti Solemon and
Mr. Kamlesh Kumar Mishra,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Abhinav Singh and Mr. Praveen
Kumar Kaushik, Advocates for R-1.
Mr. Ajay Vikram Singh, Advocate for
R-2.
Ms. Aakriti Garg, Advocate for Mr.
Parvinder Chauhan, Advocate for
DUSIB.

+ **W.P.(C) 6294/2024 & CM APPL. 26237/2024**



LAXMAN DAS

..... Petitioner

Through: Ms. Renu, Ms. Samishti Solemon and
Mr. Kamlesh Kumar Mishra,
Advocates.

versus

STATE OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Rishikesh Kumar, ASC with Ms.
Sheenu Priya, Mr. Atik Gill and Mr.
Sudhir Kumar Shukla, Advocates.
Ms. Aakriti Garg, Advocate for Mr.
Parvinder Chauhan, Advocate for
DUSIB.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

28.05.2024

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1. Since all the three Writ Petitions arise out of a common Order dated 01.08.2023 passed by the Financial Commissioner, Delhi and all the three Petitioners in W.P.(C) 7354/2024, W.P.(C) 7402/2024 and W.P.(C) 6294/2024 respectively are represented by a common Counsel, with the consent of all the parties, all the three Writ Petitions are being disposed of by a common Order.
2. It is stated that Respondent No.3 herein, Mr. Sanjeev Jain, who is the alleged owner of Mahal Sarai, Chowk Rai Ji, Nai Sadak, Roshnapura, Delhi-06 (*hereinafter referred to as "the premises in question"*) filed Petitions before the Competent Authority under Section 19 of the Slum Area (Improvement and Clearance) Act, 1956 (*hereinafter referred to as "the Slum Act"*) for eviction of the Petitioners herein, who are the tenants of the premises in question.



3. The Petitioners herein filed applications under Section 151 of the Slum Act before the Competent Authority for cross-examination of Respondent No.3 herein. It is the case of the Petitioners that they do not have enough means to find an alternate rented accommodation and their eviction from the premises in question will only create more slums. It was further contended by the Petitioners herein that the Petition filed by Respondent No.3 herein is not maintainable. It is also submitted that the layout plan and the measurement of the premises in question have been disputed by the Petitioners herein in their application filed before the Competent Authority. The Petitioners also stated in their application that Respondent No.3 herein is not the owner of the premises in question and that the rents are being paid by the Petitioners to the previous owner.

4. Vide Order dated 14.05.2018, the application of the Petitioners for cross-examination of Respondent No.3 was dismissed and vide Order dated 13.06.2018, the Petition of the Respondent No.3 herein was allowed by the Competent Authority and the Respondent No.3 was permitted to initiate eviction proceedings against the Petitioners herein.

5. The Competent Authority held that the proceedings under the Slum Act are summary in nature. The competent authority accepted the contention of the Respondent No.3 herein that he is the owner of the property in question on the basis of a registered sale deed which had been filed by Respondent No.3. The competent authority held that the Petitioners herein are the tenants in the property in question and they cannot deny the title of the land-lord. It has been held that the title will have to be decided by the appropriate Court and the authority under the Slum Act only has to see whether a primary relationship between the parties exists or not. The



competent authority also rejected the contention of the Petitioners herein that the layout of the property in question is not as per the plan on the ground that other than making a bald statement to this effect, no other material was placed by the Petitioners before the competent authority to prove the same. The competent authority was also of the opinion that the Petitioners have to lead evidence and they have to come clean by showing their income to substantiate their stand that they cannot afford tenanted premises elsewhere. The competent authority, therefore, held that without discharging the initial burden the onus of proving the income and title would not shift to the land-lord. The competent authority placed reliance on several judgments, namely, Mandir Das Jain v. P.R. Varshneya, **1972 RLR (N) 41**; Ramji Lal v. H.C. Arora, **1976, RLR (N) 12** & Girdhari Lal v. G.C. Jain, **1980 RLR 299**, to come to the conclusion that it is for the tenants to disclose their income as it is in their knowledge.

6. The said Order was challenged by the Petitioners herein by filing appeals under Section 20 of the Slum Act and the Financial Commissioner *vide* Order dated 01.08.2023 upheld the order passed by the competent authority and dismissed the appeals filed by the Petitioners herein. The Financial Commissioner has also held that the appeals filed by the Petitioners under Section 20 of the Slum Act are not maintainable as the same can only be filed by the landlord. It is this Order which is under challenge in the present Writ Petitions.

7. Learned Counsel appearing for the Petitioners has very vehemently contended that none of the ingredients under Section 19 of the Slum Act has been satisfied and the eviction petitions filed by the Respondent No.3 were not maintainable. He states that the initial onus was on the Respondent No.3



to show that the Petitioners have the means to get an accommodation outside the slum area and that their eviction will not result in creation of further slums. He states that since the landlord has not discharged the initial burden, the onus could not have shifted on the Petitioners herein. Learned Counsel for the Petitioner further states that a Local Commissioner ought to have been appointed to inspect the site to find out as to whether the site plan is in accordance with the actual plan. He further states that the Petitioners cannot be evicted from a place of which they are not tenants.

8. Heard the Counsels for the parties and perused the material on record.

9. At this juncture, this Court is not going into the question as to whether the appeals were maintainable or not and to satisfy its consciousness this Court has looked into the question as to whether the Order passed by the Competent Authority is correct or not.

10. This Court is of the opinion that both, the Competent Authority and the Appellate Authority are correct in coming to the conclusion that the initial burden is on the Petitioners herein to show that they do not have means to get an alternate accommodation. Merely by stating that the Petitioners do not have any means to get an alternate accommodation will not shift the burden from the Petitioners to the landlord/Respondent No.3 herein. The Petitioners have to state what is the source of their income. A statement in the reply would not suffice that the Petitioners do not have enough means to get an alternate accommodation in a non-slum area. The Petitioners have to put some material to show their income and then the onus will shift to the landlord to prove that the tenants have further income and they can get an alternate accommodation outside the slum area.

11. In view of the above, this Court is not inclined to interfere with the



Order passed by the competent authority and the Financial Commissioner.

12. Accordingly, the Writ Petitions are dismissed along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

MAY 28, 2024

Rahul