



2024:DHC:7888



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Order: 01.10.2024

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RC.REV. 260/2020**NORTH DELHI MUNICIPAL CORPORATIONPetitioner****Through: Ms. Namrata Mukim, SC for MCD
with Ms. Rupali Gupta, Advocate.****versus****MS. ANITA BAJAJ & ANR.****.....Respondents****Through: Ms. Uma Aggarwal & Mr. Pulkit
Aggarwal, Advocates.****CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (ORAL)**

1. The present Petition seeks to challenge the eviction order dated 29.01.2022 passed by the learned Trial Court under section 25 B (4) of the Delhi Rent Control Act, 1958 [hereinafter referred to as "the Act"]. By the said order, the Application for Leave to Defend filed by the Petitioner/tenant was directed to be dismissed and an order holding that the Respondents/landlord is entitled for recovery of the tenanted premises i.e., plot bearing no. 85, Old Rajinder Nagar, New Delhi [hereinafter referred to as "the tenanted premises"]].

2. This Court while issuing notice in the matter had noted the contention of the Respondents/landlord that the eviction order has been executed and possession has been taken over thereafter. The Court further directed that the Respondents/landlord will maintain *status quo* in respect of title, possession and construction of the tenanted premises.



2.1 By an order dated 06.04.2021, a Coordinate Bench of this Court directed that the Respondents/landlord are at liberty to use the tenanted premises in accordance with law subject to outcome of the present Petition.

3. Learned Counsel for the Respondents/landlord submits that it is not in dispute that the Respondents are the owners and landlord of the subject premises and that the Eviction Order has already been executed and possession has been taken over on 17.12.2020.

4. Learned Counsel for the Respondents/landlord further submits that even before the learned Trial Court, the only issue raised by the Petitioner/tenant was with respect to the bonafide need of the Respondents/landlord, who has opened her law office. It is contended that the Respondent No.1 is a lawyer and duly enrolled with the Bar Council of Delhi and Respondent No.2 is currently unemployed and requires the subject premises to run a business.

5. Learned Counsel for the Respondents/landlord further submits that in view of the fact that the possession of the tenanted premises was taken over by the Respondents/landlord pursuant to the execution of the warrants of possession, the matter has become infructuous.

6. Learned Counsel for the Petitioner/tenant, on the other hand, contends that in the event the Impugned Order is set aside, the possession of the tenanted premises is liable to be restored back to the Petitioner/tenant.

6.1 Learned Counsel submits that the alleged bona fide need of the Respondent/Landlord is sham and whimsical and the same has been



manufactured for the eviction of the Petitioner/tenant and that the Respondents have sufficient residential/commercial accommodation at their disposal. Hence, no ground is made under Section 14 (1) (e) of the Act.

7. The issue of whether a Revision Petition is maintainable when the tenanted premises have been legally restored to the Respondents/landlord, either during or before the filing of the Revision Petition, has been addressed by the Supreme Court as well as by Coordinate Benches of this Court.

8. The Supreme Court in *NC Daga v. Inder Mohan Singh Rana*¹, dealt with a similar situation while dismissing a challenge by a tenant to a judgment passed by this Court upholding an order declining leave to defend passed by the learned Trial Court. The facts in the case were that pursuant to order passed by the learned Trial Court, possession had been taken pursuant to an order passed by the Executing Court. The Supreme Court dealt with the similar arguments raised on behalf of the Respondents/landlord that the Petition has become infructuous pursuant to the possession having been taken.

8.1 After briefly examining the contention of the parties, the Supreme Court held that in view of the admitted position of possession being taken in execution proceedings, it was not necessary to go into the further details since such a decision would be a purely academic question. The Supreme Court held as follows:

“6. In view of the admitted position that pursuant to the order passed by the Rent Controller, possession has been taken on execution of the order permitting eviction, and absence of specific stand regarding implied consent it is, however, not necessary to go into the finer details

¹ (2003) 1 SCC 453



and to examine the rival stand in the background of legal position as it would amount to rendering decision on a purely academic question. The appeal is, therefore, dismissed, without any order as to costs.”

[Emphasis supplied]

9. A similar view was taken by the Supreme Court in ***Vinod Kumar Verma v. Manmohan Verma***² where on an averment by the Respondent/landlord that possession of the premises has already been taken over, the Supreme Court held that nothing further survives in the Appeal and disposed the Appeals filed as being infructuous. The order being brief is extracted below:

“Leave granted.

At the time of hearing of these appeals, the learned counsel appearing on behalf of the landlord-respondent submits, on instructions, that the possession of the premises in question has already been taken over by the landlord-respondent. That being the position, these appeals have now become infructuous, which have been filed against the final judgment and order dt.25.02.2008 and 28.03.2008 passed by the High Court of Delhi at New Delhi in RCR No.49 of 2007 and C.M.No.119 of 2008 (Review) in RCR No.49 of 2007, by which the Revision Petition filed by the tenant/appellant was dismissed and order of eviction was affirmed. Since the possession has already been taken over by the landlord-respondent, in our view nothing survives in these appeals and accordingly, the appeals are disposed of as infructuous.

Interim order, if any, stands vacated.

There will be no order as to costs.”

[Emphasis Supplied]

10. Various Coordinate Benches of this Court have also similarly held that the tenant’s Petition have become infructuous in view of possession being taken. Reliance is placed on ***Neelam Sharma v. Ekant Rekhan***³ and

² Civil Appeal Nos. 5220-5221 of 2008

³ 2019 SCC Online Del 6487



Bhawani Shankar v Nand Lal and Ors.⁴

10.1 In ***Om Prakash Ashok Kumar & Sons v. Ajay Khurana⁵*** while relying on the ***NC Daga*** case and several other cases, a Coordinate Bench held as follows:

“10. This Court in various decisions has followed the decision given by the Supreme Court in N.C. Daga v. Inder Mohan Singh Rana. The Co-ordinate Bench of this Court in Poonam Bangia v. Harbhagwan Dass Chandiramani in RC. REV. no. 16/2021 vide order dated 22.07.2021 after following the law laid down in N.C. Daga v. Inder Mohan Singh Rana, dismissed the revision petition after observing that the landlord has received the possession of the tenanted premises through execution proceedings. Another Coordinate Bench of this Court in Mange Ram v. Rajesh Narain Goel, in RC. REV. no. 147/2021, decided on 19.03.2024 after following N.C. Daga v. Inder Mohan Singh Rana and Vinod Kumar Verma v. Manmohan Verma, in Civil Appeal nos. 5220 -5221/2008 passed by the Supreme Court and in Poonam Bangia v. Harbhagwan Dass Chandiramani in RC. REV no. 16/2021 passed by this Court as mentioned hereinabove also dismissed the revision petition as became infructuous due to the reason that the possession of the subject premises has been restored to the respondent/landlord. The same view was also taken by another Co-ordinate Bench of this Court in Ram Avtar v. Anuradha Shukla in RC. Rev. Bearing no. 104/2021 vide order dated 03.11.2023, the revision petition was ordered to be dismissed as the possession of the tenanted premises has already been taken by the respondent/landlord in accordance with law.

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12. In the present case as reflected from the order dated 10.05.2024, the possession of the tenanted premises has already been restored back to the respondent/landlord in execution of warrant of possession in accordance with law. This Court is also of the view that the present petition is not maintainable. Accordingly, the present petition, along with pending applications stands dismissed being infructuous.”

[Emphasis Supplied]

11. This Court in various orders including Order dated 14.12.2023 passed

⁴ 2021 SCC OnLine Del 4284

⁵ 2024 SCC OnLine Del 5228



in **RC. REV. 335/2019** captioned **Ajay Kumar v. Ranbir Singh & Ors**, Order dated 06.12.2023 passed in **RC.REV. 52/2023** captioned **Govardhan Lal v. Smt. Vidya Rani (Deceased) Through Lrs** and Order dated 03.11.2023 passed in **RC.REV. 104/2021** captioned **Ram Avtar v. Smt. Anuradha Shukla** has held that when a Revision Petition has been filed challenging an order of learned Trial Court which has now gained fruition and has already been implemented through execution proceedings, in such circumstances, the Revision Petition has become infructuous. In addition, it has been held that once possession was taken over by the Respondent/landlord in accordance with law, the Petition becomes infructuous. The relevant extract of **Ram Avtar** case reads as follows:

*“4.1 This Court has considered this contention of the learned Counsel for the Petitioner/tenant. **The Revision Petition has been filed challenging the order of the Trial Court which has now gained fruition, and has already been implemented through execution proceedings. In these circumstances, the Revision Petition has become infructuous.***

5. Furthermore, this Court in various judgments held that once possession has been taken over by the Respondent/landlord in accordance with law, this petition becomes infructuous and in view thereof, nothing survives in the petition.”

[Emphasis supplied]

12. The provisions of the Act provide for a remedy of restoration to a Petitioner/tenant in one situation and, i.e., under Section 19 of the Act. In cases under Section 14(1)(e) of the Act, the recovery of possession by a tenant under Section 19(1) can be obtained if the landlord re-let the whole or part of the premises within three years from the date of obtaining possession from the evicted tenant. Sub-section (2) of Section 19 of the Act further provides that where such premises are re-let to a person without permission



of the Rent Controller within three years from the date of possession, the Rent Controller may direct the landlord to put the tenant in possession or pay him such compensation as is deemed fit by the Rent Controller. Section 19 is set out below:

“19. Recovery of possession for occupation and re-entry.—(1) Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of section 14 [or under sections 14A, 14B, 14C, 14D and 21, the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises.

(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by the person for whose benefit the premises are held, within two months of obtaining such possession, or the premises having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (1) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be bona fide, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.”

12.1 The Supreme Court in ***Abid-Ul-Islam v. Inder Sain Dua***⁶ has held that Section 19 of the Act gives a right of re-possession to the dispossessed tenant if landlord recovers possession under Section 14(1)(e) of the Act and thereafter, the landlord does not use the subject premises for the purpose that it was intended and set out in such Eviction Petition, on which basis, an order for eviction was obtained by the landlord. The relevant extract is set out below:

⁶ (2022) 6 SCC 30



*“19. Before a presumption is drawn, the landlord is duty-bound to place prima facie material supported by the adequate averments. It is only thereafter, the presumption gets attracted and the onus shifts on the tenant. The object of Section 14(1)(e) vis-à-vis Section 25-B has to be seen in the light of yet another provision contained under Section 19. **Section 19 gives a right to the dispossessed tenant for repossession if there is a non-compliance on the part of the landlord albeit after eviction, to put the premises to use for the intended purpose. Such a right is available only to a tenant who stood dispossessed on the application filed by the landlord invoking Section 14(1)(e) being allowed. Thus, Section 19 inter alia throws more light on the legislative objective facilitating a speedy possession.** The object is also reflected in the proviso to Section 25-B(8), denying a right of appeal..”*

[Emphasis Supplied]

13. By the Impugned Judgment, the learned Trial Court has found that the need of the Respondents/landlord to be *bonafide*. The Eviction Petition was filed setting out the requirement of Respondent No.1 to open her law office. It was contended that Respondent No.1 is a lawyer and the relevant documents i.e., Bar Enrolment Number and Bar Council ID were also filed by Respondent No.1. Further, the *bona fide* requirement of Respondent No.2 is also specified since Respondent No.2 is unemployed and needs to start a business from the tenanted premises. The only ground taken by the Petitioner/tenant in its Application for leave to defend is that after the Respondent/landlord purchased the property “*they bent upon to evict the Petitioner from the same*”. In addition, it is contended that the property is being used by the sanitation department for the grievances of the public in that area and eviction of the Petitioner/tenant from the premises would lead to public outcry and discomfort. The learned Trial Court found that the grounds taken by the Petitioner/tenant in its Application for leave to defend were not of a nature which would show a substantial defence to disentitle the Respondent/landlord to an order of eviction. It was held that mere vague



2024:DHC:7888



pleas have been taken which have been unsubstantiated by the Petitioner/tenant. The learned Trial Court found that no triable issue has been raised by the Petitioner/tenant. This Court does not find any infirmity with this finding of the Trial Court.

13.1 So far as concerns the plea of availability of alternate suitable accommodation, it has been held that such plea has not been substantiated by the Petitioner/tenant before the learned Trial Court. The position before this Court is the same.

13.2 The learned Trial Court also found that the title dispute between the Petitioner/tenant and the Respondent/landlord has been duly adjudicated by the learned Trial Court by a judgment dated 04.03.2016 in Civil Suit bearing no. 6 of 2010. It was held that the Petitioner/tenant had not denied the tenancy of the tenanted premises and had admitted to the relationship with the predecessor-in-interest of the Respondent/landlord. Thus, this plea of the Petitioner/tenant does not merit any consideration

14. In view of the foregoing discussions, the present Revision Petition is dismissed. All interim orders stand vacated.

15. Parties will act based on digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 1, 2024/ ha

[Click here to check corrigendum, if any](#)