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** IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 25th July, 2024*

+ CM(M) 3004/2024 & CM APPL. 41621-41622/2024

VIR PAL

.....Petitioner

Through: Dr. M K Gahlaut with Mr. Varun Jain,
Advocates.

versus

VIJAY KUMAR FARSHWAL AND ANR

.....Respondent

Through: Mr. Tushar Sannu with Mr. Shobhan
Sachdeva, Advocates for DDA.
Mr. R K Sharma with Ms. Ankita
Bhatia and Mr. Nikhil Choudhary,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner herein is defendant before the learned Trial Court and is aggrieved by order dated 20.07.2024 whereby his objection filed under Section 47 CPC, his applications moved under Section 340 Cr.P.C, under Section 12 of Contempt of Courts Act and under Section 151 CPC have been dismissed.
2. Petitioner herein is a tenant.
3. For the sake of convenience, I would be referring to the parties as per their nomenclature before the learned Trial Court.



4. An Eviction Petition was filed by Mr. Vijay Kumar Farshwal against his tenant, Mr. Vir Pal (petitioner herein) seeking eviction on the ground of *bona fide* requirement i.e. under Section 14(1)(e) read with Section 25B of Delhi Rent Control Act, 1958 ('in short' DRC Act) .

5. The tenant was duly served through his son but despite such service, the tenant neither marked his appearance nor opted to file any application seeking leave to defend.

6. The learned Trial Court, in view of the fact that there was no appearance from the side of the tenant and no application seeking leave to defend had been filed, eventually went on to hold that the averments made in the Eviction Petition were deemed to be admitted and resultantly, ordered eviction under Section 14(1) (e), DRC Act while granting time of six months to the tenant to vacate the premises in question.

7. Such order was passed on 04.12.2017.

8. The tenant filed an application under Section 114 read with Section 151 CPC seeking review of said order and vide order dated 11.09.2018, his such review was allowed by the learned Trial Court and it was held that the petition itself was not maintainable under Section 14(1) (e) DRC Act and, therefore, the Eviction Petition, as a whole, was dismissed.

9. Feeling aggrieved, the landlord filed a petition before this Court which was registered as RC. Rev. 608/18. By a composite order, such revision petition was allowed and, resultantly, the eviction order passed on 04.12.2017 was restored.



10. However, the things did not stop there.

11. The tenant, feeling dissatisfied, knocked the doors of the Hon'ble Supreme Court of India and when the matter was taken up by the Hon'ble Supreme Court on 01.04.2024, the Hon'ble Supreme Court did not interfere with the impugned order. It will be appropriate to extract the said order which reads as under:-

- “1. Delay condoned.*
- 2. Exemption Applications are allowed.*
- 3. Having heard the learned Senior counsel for the petitioners at length and after carefully perusing the material placed on record, we are not inclined to interfere with the impugned orders passed by the High Court.*
- 4. The Special Leave Petitions are, accordingly, dismissed.*
- 5. At this stage, learned Senior counsel for the petitioners prays for some time to vacate the suit premises.*
- 6. Subject to the usual undertaking being filed by the petitioners before this Court within one week from today, the petitioners are granted time till 15-5-2024 to vacate their respective suit premises. If the undertaking is not filed by the petitioners within the stipulated period as directed, the respondents shall be at liberty to get the petitioners evicted in accordance with law without any further reference to this Court.*
- 7. We make it clear that no further extension of time would be granted to the petitioners.”*

12. It is very much obvious from the aforesaid order that the Hon'ble Supreme Court was not inclined to interfere with the impugned order and the SLP was dismissed and when the SLP was being dismissed, the learned Senior Counsel for the tenant prayed for sometime to vacate the suit premises and on the basis of such statement made at the Bar by the learned Senior Counsel for the tenant, the time till 15.05.2024 was



granted, to vacate the tenanted premises in question.

13. It was also noticed by the Hon'ble Supreme Court that no further extension of time would be granted to the petitioner.

14. During course of the arguments, Mr. Gahlot, learned counsel for petitioner submitted that such undertaking was, however, not filed in the Hon'ble Supreme Court.

15. Be that as it may, it is very much apparent that learned Senior Counsel for the tenant had prayed for time to vacate the suit premises and irrespective of filing of any undertaking, it was not appropriate for such tenant to have started another round of litigation, virtually, on the same grounds.

16. Instead of vacating the premises, the aforesaid applications were filed before the learned Trial Court and it is attempted to portray that the eviction order has been obtained by playing fraud and by misleading the Court.

17. It is contended that the petitioner was not the owner or landlord of the premises in question and the land belonged to DDA. During course of the consideration, Mr. Gahlot has stated that he would rather have no objection in handing over the possession to DDA but as far as the landlord was concerned, there was no relationship of landlord and tenant between the parties and, therefore, the eviction petition was not even maintainable. It was, however, also agitated that even the Government cannot recover possession from him as he has become



owner by adverse possession.

18. All the aforesaid applications, filed by the tenant before the learned Trial Court, have been dismissed.

19. The learned Trial Court considered all such objections in the impugned order and the relevant paras are extracted as under:-

“12. The tenant wants to project that all the documents filed by Vijay Kumar Farshwal (Petitioner/DH) in the eviction petition are fabricated documents and therefore he is not the owner of the property and that the property is a Nazul land belonging to government agency and also that he himself is occupying the property uninterruptedly since time immemorial.

13. On the aforesaid facts, the tenant has created ground for filing of multiple applications and has filed all his applications aforesaid. His alleged facts can be dealt with in simple manner. When the tenant is claiming that he has been in uninterrupted possession since time immemorial, he is clearly trying to say that he has become owner by adverse possession. Unfortunately, he has not satisfied any of the requirements of adverse possession. He has not provided any details as to how he came in the possession of the property or how he has claimed open hostility or even whether the actual owner is aware about his hostility or not. A vague mentioning of settled possession cannot create any ownership rights. On a different note, it may be said that even a tenant remains in continuous unerupted possession of property if a landlord does not disturb him but by that fact, the tenant does not become owner by adverse possession.

14. The tenant/JD has not filed any document to show that he is the owner of the property. What he is claiming is that government agencies are the owner of the property. He obviously cannot fill the shoes of the government agencies nor can take upon himself to protect the interest of such government agencies before a court. If in reality, the property belongs to any government agency, such agency will definitely be able to recover its possession from anyone including the DH herein in accordance with law if they are able to make out a case before any judicial forum. But the tenant/JD herein cannot come and interfere in execution proceedings claiming that



government agencies are owner.

15. So far as the claim that Vijay Kumar is not the owner of the property is concerned, I am of the view that Section 14(1)(e) not only applies to an owner but also to a landlord. Judicial precedents are in abundance to indicate that an eviction petitioner need not be required to show absolute ownership and it would be sufficient if he is able to show that he is more than the tenant. Vijay Kumar has shown multiple registered documents to claim ownership. A registered document always carries with it a presumption of genuinity. Only because the tenant is suddenly desirous of disputing such documents that too in collateral proceeding, the presumption will not vanish. The tenant himself has mentioned in these applications about several registered documents right from the year 1959. If we allow the tenant to doubt such registered documents mere on ipse dixit of the tenant (who was not concerned with those documents or their registration), we will be doubting the acts of several sub-registrars before whom those documents were registered. When official acts are deemed to have been performed properly, there would be a need of very strong case to raise doubt thereon. A mere bald claim of a person that too who has already lost upto Supreme Court, should not become the basis of any such doubt. Apart from the registered documents, there have been mutation in MCD records for tax purposes and this has been pleaded by the tenant himself in these applications. Now, the tenant wants to say that even such record is wrongly obtained. It appears that the tenant wishes that everyone and everything is wrong except his words. This cannot be encouraged at all.

16. It would be interesting to note that as per the pleading of the tenant in these applications, there were rent receipts and he claims that those rent receipts were fabricated by Vijay Kumar. If there were rent receipts, the instant JD would certainly be treated as tenant without doubt. Simply a claim that the rent receipts were fabricated cannot be sufficient. Once he got the knowledge that someone has fabricated some rent receipts in his name, JD ought to have taken some action like lodging a police complaint or a criminal case or a civil case for cancellation of those rent receipts. Nothing has been shown to have been done by the tenant/JD. His bald claim about fabrication cannot be accepted. If we start accepting such claims, every tenant will try to avoid execution proceeding by filing favelous application claiming forgery of rent receipts without any material support.



17. It is clear from the aforesaid that there is no material to infer that there was any misdeed on the part of landlord/DH and the tenant/JD is just trying to prolong the proceedings by making frivolous claims. JD has relied upon certain citations to contend that fraud vitiates everything, that if a person has provided wrong information he should be punished with contempt, that stream of justice needs to be kept pure by taking stringent action, that court is duty bound to initiate action etc. However, none of the judgements is applicable herein as the DH is not found at fault. Simply quoting portions from citations by the JD will not serve any purpose de-hors the facts involved."

20. It is quite obvious from the facts placed before this Court that the intention and objective of the tenant is other than *bona fide*. Though, he assumes himself to be an unauthorized occupant on the Government land but, at the same time, he also wants to project that he has become owner by adverse possession. He also challenges the locus of the landlord to have filed the eviction petition in question on the ground of *bona fide* requirements. According to him, since there was no relationship of landlord and tenant between the parties, the eviction petition could not have been filed, even otherwise.

21. However, the tenant has missed out on a very important facet of the case. When the Eviction Petition was filed, he was duly served and it was always open to him to have taken all these objections by putting in appearance before the learned Rent Controller and also by filing an application seeking leave to defend. If he was so sure about his own right, then when he had received the summons, he should have participated in the proceedings and should have placed everything on record for judicial scrutiny. The opportunity, albeit, went begging. Unfortunately, now it is too late for him, particularly, when he has suffered eviction order way back in the year 2017 to



agitate about the same.

22. Moreover these grounds, have been gone into in a comprehensive manner by learned Trial Court and there is no reason to come to a different view.

23. This Court expresses its anguish and pain that despite the fact that the learned Senior Counsel for the tenant had made a conscious statement at the Bar before the highest Court of the country that the premises would be vacated, the same very tenant, instead of vacating the premises is filing applications, one after the other. As a bare minimum, due respect should have been shown by the tenant to a responsible statement made before the Apex Court.

24. Be that as it may, keeping in mind the facts placed on record, this Court does not find any merit and substance in the present petition and the same is dismissed.

(MANOJ JAIN)
JUDGE

JULY 25, 2024/sw