



\$~1

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

+ **RC.REV. 356/2023**

MONGA ELECTRONICS

..... Petitioner

Through: Mr. Jaiveer Shergill and Mr. Gaurav Gupta and Ms. Rajshree Jaiswal, Advocates along with Petitioner in person

versus

SHRIKASHMEERI LAL AND ANR

..... Respondents

Through: Mr. Inderjeet Singh and Mr. Brij Pal, Advocates along with R-1 and R-2 in person

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

%

28.02.2024

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 64533/2023 & CM APPL. 64534/2023 (exemption)

1. Allowed, subject to just exceptions.

CM APPL. 64535/2023 (additional documents) & CM APPL. 64532/2023 (stay)

2. Learned counsel for respondents, who has appeared on advance service of paperbook accepts notice.

3. On the issue of stay on the operation of the impugned eviction order, I have heard learned counsel for both sides.

RC.REV. 356/2023

Page 1 of 4



4. By way of this petition brought under proviso to Section 25B (8) of the Delhi Rent Control Act, the petitioner/tenant has assailed dismissal of his application seeking leave to contest the proceedings under Section 14(1)(e) of the Delhi Rent Control Act. The main plank of challenge is that the learned Additional Rent Controller erred in not taking note of the legal position that the present respondents (landlords) had concealed vital facts in the eviction petition and those facts having been brought before the Court by the petitioner/tenant through application for leave to contest necessarily constituted a triable issue, so leave to contest ought to have been granted. The alleged concealment is that the present respondents failed to disclose three properties owned by the respondents/landlords situated in Bawana, Daryaganj and Krishna Nagar, which properties were disclosed only by the petitioner/tenant through application for leave to contest.

5. In response, learned counsel for respondents/landlords took me through record including the site plan Annexure –P6 (PDF Page 135) filed by the present petitioner himself before the learned Additional Rent Controller and explained through pleadings the case set up by the respondents/landlords.

6. Not every failure to disclose facts amounts to concealment fatal to the suit. It is only the non-disclosure of relevant facts which would be tantamount to such concealment, fatal to the suit.

7. In the present case, the subject property is a shop forming part of larger premises bearing no. F-6, F-7, Laxmi Nagar, Delhi. As specifically depicted in the site plan filed by the petitioner/tenant himself, the subject property forms a connecting passage between the main road and the much



larger area behind the subject property. The said much larger area is occupied by the present respondents/landlords in which business of garments is being carried out. In the eviction petition, the present respondents/landlords specifically pleaded that the subject property is required by them for the purposes of creating a passage to the said larger area. That being so, in my view, the properties available at far away places like Bawana, Daryaganj and Krishna Nagar would not be relevant.

8. It is further contended by learned counsel for petitioner/tenant that during the course of eviction proceedings, few portions on the first floor of the said larger premises also got vacated, so the present respondents/landlords have reasonably suitable alternate accommodation. In this regard, it is submitted by learned counsel for petitioner/tenant that an application under Order VI Rule 17 CPC was filed to plead this subsequent circumstance, but that application was dismissed and the said issue is now pending before another bench of this Court. To my mind, even availability of portions on first floor of the said larger premises would not be a relevant factor keeping in mind that the *bona fide* requirement set up by the respondents/landlords is to create a passage between their shop of garments and main road.

9. At this stage, learned counsel for respondents/landlords discloses that ever since filing of the eviction petition, not a single penny even towards the admitted rent has been paid by the petitioner/tenant.

10. I am unable to find any reason to stay the operation of the impugned eviction order. However, learned counsel for petitioner/tenant seeks further time to examine these aspects in details.



11. At this stage, learned counsel for petitioner/tenant on instructions of his client Sh. Ravi Monga, present in Court requests that the petitioner/tenant may be granted time till 30.06.2024 to vacate the subject premises. The request is acceptable to both respondents present in Court.

RC.REV. 356/2023

12. In these circumstances, on instructions of petitioner/tenant, learned counsel for petitioner/tenant seeks permission to withdraw this petition with protection from eviction till 30.06.2024.

13. Accordingly, the petition and pending applications are dismissed as withdrawn with the direction that till 30.06.2024, the petitioner/tenant shall not be evicted from the subject premises by way of execution of the impugned eviction order, though the respondents/landlords shall be at liberty to file execution proceedings so that if by 30.06.2024 the petitioner/tenant does not vacate the subject premises, warrants of possession may be obtained and got executed.

14. As requested *dasti* copy of this order be given to both sides.

GIRISH KATHPALIA, J

FEBRUARY 28, 2024/rk

Click here to check corrigendum, if any