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

+ RC.REV. 252/2024 & CM APPL. 53657/2024, CM APPL. 53658/2024 (exemption)

YOGRAJ DEV SHANDILYAPetitioner

Through: Mr. Mohit Madan, Advocate

versus

SMT CHANDRAWATI & ORS.Respondents

Through: Mr. Sunil Chauhan and Ms. Vatsala Chauhan, Advocates

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **13.09.2024**

1. The present revision petition is filed under section 25B (8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as “**the Act**”) to impugn the order dated 21.05.2024 passed by the court of Sh. Manish Jain, ACJ-CCJ-ARC, North District, Rohini Courts, Delhi (hereinafter referred to as “**the trial court**”) in RC/ARC no. 80/2016 titled as **Chandrawati and Ors. V Yograj Dev Shandaliya** whereby the application for leave to defend filed by the petitioner was dismissed.

2. The respondents filed an eviction petition bearing RC/ARC no. 80/2016 titled as **Chandrawati and Ors. V Yograj Dev Shandaliya** under Section 14(1)(e) of the Act on the ground of *bonafide* requirement by pleading that tenanted premises i.e. flat no.194/1, Pocket D-12, Sector-7, Rohini, Delhi (hereinafter referred to as “**the tenanted premises**”) as shown



in red colour in the site plan annexed with the eviction petition, was let out to the petitioner in the year 1995 by Daljeet Singh, who was the predecessor-in-interest of the respondents. The family of the respondents is growing and comprises of 14 members, as such, the tenant premises is required for the residence of the respondents. It was also pleaded that for the welfare and education of the children, there exists a *bonafide* requirement to shift from rural area to urban area and the respondents do not have any alternative accommodation except the tenanted premises. Accordingly, the eviction petition was filed.

3. The petitioner, after service of the summons as per the Third Schedule of the Act, filed an application for leave to defend along with an affidavit wherein it is stated that the third floor of the tenant premises was constructed by the petitioner and as such, the respondents have nothing to do with the third floor and accordingly, the present petition is defective. The respondents have become the owners of the property in question including the tenanted premises after the death of Daljeet Singh in the month of October, 2011 as such, the eviction petition cannot be filed before the expiry of 05 years. The petitioner also stated that the respondents have concealed the total area of the available accommodation. The application for leave to defend filed by the petitioner was contested by the respondent by filing a reply to the application.

4. The trial court after considering the material placed on record, came to the conclusion that the petitioner has not disputed the ownership of the respondents and the existence of relationship of landlord and tenant between the parties in respect of the ground and first floors, but it was stated that the second and third floors are unauthorized and as such the respondents cannot



be termed as the owners of the said second and third floors. The trial court did not agree with the said argument and observed that the petitioner is estopped from challenging the title of the respondents in view of section 116 of the Indian Evidence Act, 1872.

5. The trial court in the impugned order, also considered the *bonafide* requirement of the respondent no.1 for herself as well as her family members. The trial court also did not agree with the contention of the petitioner that the respondents are having a huge house in Village Hiranki which is sufficient to cater to the entire family of the respondents and the tenanted premises, being an LIG flat, can only accommodate a small family.

6. The trial court also observed that the tenanted premises is the only residential premises available with the respondents in urban area which is required *bonafide* by the respondents for the welfare and education of the children. The trial court also did not agree with the other contentions as raised by the petitioner. The trial court after considering all the relevant facts, dismissed the application for leave to defend filed by the petitioner and passed an eviction order in respect of the tenanted premises in favour of the respondents.

7. Mr. Mohit Madan, Advocate for the petitioner argued that an eviction petition under section 14(1)(e) of the Act was filed in which an eviction order was passed, however, during the subsequent litigation, the possession of the tenanted premises was restored back to the petitioner. He further argued that the respondents are having sufficient accommodation available in the Village Hiranki which can cater to the residential requirement of the respondents. The counsel for the petitioner also referred the judgment dated 23.08.2012 passed by Coordinate Bench of this Court in CM(M) No.



979/2011 titled as **Daljeet Singh (deceased) Th. LRs V Yograj Dev Shandilya.**

8. The counsel for the respondents, who appeared on advance notice, has controverted the arguments as advanced by the counsel for the petitioner.

9. It is appearing that the respondent no. 1/Chandrawati is the widow of the original landlord Late Daljeet Singh and respondents no. 2 to 5 are sons of Late Daljeet Singh. The respondents no. 2 to 5 are having a large family and at present, they are residing in a rural area along with their family. The respondents, for the *bonafide* need of their family and for welfare of their children, want to shift to urban area i.e. to the tenanted premises, which as per the counsel for the petitioner, comprises of only six rooms and may not be sufficient to cater to the residential requirement of the respondents. The said argument of the counsel for the petitioner cannot be accepted as it is not for the tenant to dictate the terms of convenience and suitability to the landlords/owners.

10. There is nothing bad if the respondents due to their growing families and for the welfare of their children, want to shift to the tenanted premises which is situated in the area of Rohini. The trial court has taken into consideration all the relevant facts while passing the impugned order. The impugned order is well-reasoned and does not call for any interference from this Court. Hence, the present petition is dismissed along with pending applications.

DR. SUDHIR KUMAR JAIN, J

SEPTEMBER 13, 2024

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