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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 27.11.2024*+ **RC.REV. 354/2024 & CM APPL. 69157-69159/2024**

VINOD KUMAR GARG & ANR.

.....Petitioners

Through: Mr. Piyush Gupta, Mr. Prateek Gupta
& Mr. Kuldeep Panwar, Advocates.

versus

GHANSHYAM DAS

.....Respondent

Through:

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.:** (Oral)**CM APPL. 69157/2024** [*Exemption from filing certified/dim/illegible copies*]

1. Allowed, subject to the Petitioner filing legible copies of the annexures within a period of three weeks.
2. The Application stands disposed of.

CM APPL. 69159/2024 [*for condonation of delay*]

3. This is an Application filed on behalf of Petitioners seeking condonation of 50 days in re-filing the Petition.
4. For the reasons as stated in the Application, the prayer in the Application is allowed.
5. The Application is disposed of accordingly.

RC.REV. 354/2024 & CM APPL. 69158/2024 [*for stay*]

6. The present Petition has been filed on behalf of the



Petitioners/landlords impugning the order dated 03.07.2024 [hereinafter referred to as “Impugned Order”] passed by the learned CCJ-cum-ARC (Central), Tis Hazari Courts, Delhi. By the Impugned Order, the Leave to Defend/Contest Application filed by the Respondent/tenant has been allowed and the matter has been fixed for trial by the learned Trial Court. The premises in issue is a premises comprising of 3 rooms, 1 kitchen, 1 bathroom and 1 toilet situated at First Floor of the property bearing No. 2518-A, Shish Mahal Building, Sarak Prem Narain, Choori Walan, Bazar Sita Ram, Chandni Chowk, New Delhi-110006 [hereinafter referred to as “subject premises”].

7. Learned Counsel for the Petitioners/landlords submits that the Impugned Order suffers from an infirmity.

8. So far as concerns the aspect of landlord-tenant relationship and bonafide need, the same is not subject of dispute between the parties, and the learned Trial Court has found that the same does not require any trial as no ground for the challenge has been made out by the Respondent/tenant. However, the Impugned Order states that since the Petitioners/landlords have not adequately dealt with the 11 properties which have been mentioned in the Leave to Defend/Contest Application by Respondent/tenant thus, the Leave to Defend/Contest Application was allowed.

9. Learned Counsel for the Petitioners/landlords submits that if the challenge in the present Petition was only to the availability of suitable alternate accommodation, the learned Trial Court should have allowed the Leave to Defend/Contest Application on this limited issue.

10. We find merit in the contention of the learned Counsel for the Petitioners/landlords.



11. So far as concerns the landlord-tenant relationship and the ownership of the subject premises, the same has not been disputed by the Respondent/tenant. Thus, this aspect would not be required to be examined any further.

12. In view of the fact that the Petitioners/landlords have a large family comprising of 32 members and their requirement is for their family members, the bonafide need cannot be disputed either.

13. The only challenge that has been raised in the Leave to Defend/Contest Application by the Respondent/tenant is that there are 11 alternate suitable accommodations available with the Petitioners/landlords, including in the same building where the subject premises is located. This aspect has been dealt with in the Impugned Order specifically in paragraph 5, wherein the extract from Leave to Defend has been reproduced.

13.1 The learned Trial Court has found that the Reply which was given by the Petitioners/landlords was generalized and has not specifically dealt with each of those additional accommodations.

14. We have perused the Reply to the Leave to Defend/Contest Application, and to that extent, we are in agreement with the findings of the learned Trial Court.

15. Learned Counsel for the Petitioners/landlords, at this stage, contends that the matter can be disposed of limiting the trial to the aspect of availability of alternate suitable accommodation. Since this is the only issue that is required to be proved.

16. In view of what has been discussed above and the findings of the learned Trial Court in the Impugned Order, the present Petition is disposed of restricting the trial to the extent of availability of alternate suitable



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accommodation under Section 14(1)(e) of the Delhi Rent Control Act, 1958.
All pending application(s) also stands closed.

17. Learned Counsel for the Petitioners/landlords undertakes to bring to the notice of the learned Trial Court the order passed today by filing an appropriate Application.

18. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

NOVEMBER 27, 2024/ ha

Click here to check corrigendum, if any



22. In the case of Ragavendra Kumar vs. Firm Prem Machinery AIR 2000 SC 534, the Hon'ble Supreme court held that it is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter. Reference may also be made to the case of Prativa Devi (Smt) v. T.V. Krishnan (1996) 5 SCC 353.

23. In the case of Sarla Ahuja v. United India Insurance Co. Ltd. AIR 1999 SC 100, the following was held:

" the crux of the ground envisaged in clause (e) of Section I 4 (1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona-fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona-fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona-fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona-fides of the requirement of the landlord it is quite unnecessary to make an endeavor as to how else the landlord could have adjusted himself..."

24. In the case of Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta AIR 1999 SC 2507, it was held as under:

..." The landlord may convince the court that the alternate residential accommodation though available is still of no consequence as the same is not reasonable suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternate accommodation, the entail denial of the claim of the landlord must be reasonable suitable, obviously in comparison with the suitable accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or



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vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come..."

Signature Not Verified

Digitally Signed
By: GEETA JOSHI
Signing Date: 03.12.2024
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