



\$~99

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 27.11.2024*

+ RC.REV. 530/2015

ARVINDER SINGH

.....Petitioner

Through: Mr. Pradeep Gupta, Mr. Parinav
Gupta, Ms. Mansi Gupta, Adv.

versus

URMILA BALI

.....Respondent

Through: Mr. Amit Gupta, Adv.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)**CM APPL. 66030/2024** [*For subsequent events*]

1. This is an Application filed by the Petitioner/tenant seeking to place on record the additional subsequent events.

2. This Court had on 12.11.2024 passed the following directions in the present Application:

"CM APPL. 66030/2024 [*Seeking to place on record the subsequent events*]

3. This is an Application filed during the ongoing arguments in the matter by the Petitioner/tenant for placing on record subsequent events. Learned Counsel for the Petitioner/tenant draws the attention of the Court to order dated 23.11.2023 passed in **RC.REV. 146/2023** captioned **Yogesh Kumar Gupta v. Urmila Bali Deceased Through LRs** to submit that after the passing of the Impugned Order the necessity of one shop has been satisfied in view of this order which records that another shop belonging to the Respondent/landlord has since been vacated.

4. Issue Notice.



4.1 Learned Counsel for the Respondent/landlord accepts notice and objects to the filing of the present Application during the ongoing arguments in the matter. He, however, submits that so far as concerns the above captioned matter, the *bona fide* need as set out by the Respondent/landlord in that Petition was with respect to the need of her daughter-in-law, while the need in this Petition is for the son of the Respondent/landlord.

5. It is contended that the needs are distinguished and, hence, the Application is misconceived.

6. Learned Counsel for the Respondent/landlord seeks time to file a short reply attaching the relevant documents in this regard.

6.1 Let a reply be filed within one week.

7. Rejoinder, if any, be filed before the next date of hearing.

8. Learned Counsel for the Petitioner/tenant shall provide the copy of this Application to the learned Counsel for the Respondent/landlord during the course of the day under acknowledgement.

9. List this Application on 22.11.2024. ”

3. Learned Counsel for the Respondent/landlord draws attention of the Court to the Reply filed which extracts the order dated 23.11.2023 in RC.REV. 146/2023 captioned ***Yogesh Kumar Gupta v. Urmila Bali (deceased) through LRs*** to submit that the Application is misconceived since the subsequent event sought to be referred to, was an Eviction Order passed in respect of the *bona fide* need of the Respondent/landlord's daughter-in-law, whereas the need in this petition is for the son of the Respondent/landlord.

4. On the other hand, learned Counsel for the Petitioner has also relied upon the judgment of ***Kedar Nath Agrawal (Dead) and Another v.***



Dhanraji Devi (Dead) by LRs and Another¹ in support of his contentions.

5. The Supreme Court has in ***Gaya Prasad v. Pradeep Srivastava²*** held that the date for considering the need of the Respondent/landlord is the date, the Eviction Petition was filed. However, and for an event to be considered by the Court as a subsequent event, it should be such that it would extinguish/eclipse the *bona fide* need of the Respondent/landlord entirely.

5.1 This Court has in ***Laxmi Narain and Others v. Vishal Moondhra and Others³*** while relying on the judgment of the Supreme Court in ***Gaya Prasad*** case held as follows:

“13. The *Gaya Prasad* case [*Gaya Prasad v. Pradeep Srivastava*, (2001) 2 SCC 604 : AIR 2001 SC 803] **has held that crucial date for considering the bona fide need of the landlord is the date the petition was filed.** Reliance is placed on the following extract: (SCC p. 609, paras 10 and 11)

“10. We have no doubt that the crucial date for deciding as to the bona fides of the requirement of the landlord is the date of his application for eviction. The antecedent days may perhaps have utility for him to reach the said crucial date of consideration. If every subsequent development during the post-petition period is to be taken into account for judging the bona fides of the requirement pleaded by the landlord there would perhaps be no end so long as the unfortunate situation in our litigative slow process system subsists....

11. We cannot forget that while considering the bona fides of the need of the landlord the crucial date is the date of petition. In *Ramesh Kumar v. Kesho Ram* [*Ramesh Kumar v. Kesho Ram*, 1992 Supp (2) SCC 623] a two-Judge Bench of this Court (M.N.

¹ (2004) 8 SCC 76

² (2001) 2 SCC 604

³ 2024 SCC OnLine Del 387



Venkatachalia, J., as he then was, and N.M. Kasliwal, J.) pointed out that the normal rule is that rights and obligations of the parties are to be determined as they were when the lis commenced and the only exception is that the court is not precluded from moulding the reliefs appropriately in consideration of subsequent events provided such events had an impact on those rights and obligations....

(emphasis supplied)

13.1. Admittedly, at the time of filing of the eviction petition, there was no other commercial accommodation available with the respondents landlords that was suitable for their respective businesses.

[Emphasis supplied]

5.2 In the *Laxmi Narain* case, while relying on the settled law of the Supreme Court, this Court also cautioned that cognizance of subsequent events should be taken with care. Since, the process of litigation is slow, by the time the litigation reaches its final stages, there are likely to be several subsequent events. However, only those events which would completely overshadow the genuineness of the landlord's requirement should be considered as subsequent events. The relevant extract is below:

*“14.1. Usually, the bona fide need of a landlord is required to be substantiated at the time of filing of the petition. However, if a subsequent event significantly eclipses the bona fide need, it will be required to be taken into account. This principle is supported by the decision in *Gaya Prasad* case [*Gaya Prasad v. Pradeep Srivastava*, (2001) 2 SCC 604 : AIR 2001 SC 803] which states: (SCC p. 610, para 13)*

*“13. In our opinion, the subsequent events to overshadow the genuineness of the need must be of such nature and of such a dimension that the need propounded by the petitioning party should have been completely eclipsed by such subsequent events. A three-Judge Bench of this Court in *Pasupuleti Venkateswarlu v. Motor & General Traders* [*Pasupuleti Venkateswarlu v. Motor & General Traders*, (1975) 1 SCC 770] which pointed to the need for*



remoulding the reliefs on the strength of subsequent events affecting the cause of action in the field of rent control litigation, forewarned that cognizance of such subsequent events should be taken very cautiously. This is what learned Judges of the Bench said then: (SCC pp. 772-73, para 4)

‘4. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed’....

(emphasis supplied)”

14.2. The Supreme Court in the Gaya Prasad case relying on the Pasupuleti Venkateswarlu case, has however cautioned that in the field of rent control litigation, cognizance of subsequent events should be taken with care so that the rules of fairness are available to both parties.

14.3. Since the process of litigation is slow, by the time the litigation reaches its final stages, there are likely to be several subsequent events. However, only some are “subsequent” events of such nature, that would completely overshadow the genuineness of a landlord's requirement.

[Emphasis supplied]

6. The Petitioner has relied upon the **Kedar Nath Agarwal** case in support of his contention that subsequent events are required to be taken into consideration by the Courts. It has further been contended that the **Gaya Prasad** case is not good law. The contentions of the Petitioner are misconceived. In **Kedar Nath Agarwal** case, the applicant for whom the Eviction Petition was filed was no longer alive, and as such the subsequent event was relevant. In addition, the judgment in the **Kedar Nath Agrawal** case from paragraph 29 onwards also discusses the legal position in



*Pasupuleti Venkateswarlu v. Motor and General Traders*⁴, and *Hasmat Rai v. Raghunath Prasad*⁵ judgments. However, the Supreme Court in *Kedar Nath Agrawal* case while discussing *Gaya Prasad* case, distinguishes the *Gaya Prasad* case on its facts. In any event, the judgment in the *Kedar Nath Agrawal* case would not be applicable to the present case in view of the fact that the *bona fide* need of the Respondent/landlord for his son still subsists. Thus, the reliance placed upon this case by the Petitioner is without merit.

7. Learned Counsel for the Petitioner/tenant has also filed an additional Affidavit with new documents on 25.11.2024. It is settled law that an Eviction Petition has to be decided on the basis of the facts averred therein and in the Application for Leave to Defend. A tenant cannot be permitted to keep filing new and additional documents every few years with a view to prolong the pendency of a Revision Petition, in the manner as has been done in the present case, where this Revision Petition is pending for more than 9 years.

7.1 In *D. Sasi Kumar v. Soundararajan*⁶, the Supreme Court has reiterated the findings of the *Gaya Prasad* case that the crucial date would be the date of the date of filing the Eviction Petition and further clarified that the litigation is a time consuming process, and tenants cannot be allowed to take advantage of a delay in adjudication. It was further held that the Court cannot come to the conclusion that the need is not *bona fide* if it does not

⁴ (1975) 1 SCC 770

⁵ (1981) 3 SCC 103

⁶ (2019) 9 SCC 282



subsist on the date of final adjudication of rights.

7.2 The Supreme Court in *D. Sasi Kumar* case further held that it cannot be lost sight of, that the judicial process consumes a long period and the delay in this process, would encourage the tenants to protract the litigation, so as to defeat the rights of the landlord. It was further held that if on the date of filing the Eviction Petition the requirement subsists and is proved, the same would be sufficient. The relevant extract reads as follows:

"12. Further, the High Court has also erroneously arrived at the conclusion that the bona fide occupation as sought should be not only on the date of the petition but it should continue to be there on the date of final adjudication of rights. Firstly, there is no material on record to indicate that the need as pleaded at the time of filing the petition does not subsist at this point. Even otherwise such conclusion cannot be reached, when it cannot be lost sight that the very judicial process consumes a long period and because of the delay in the process if the benefit is declined it would only encourage the tenants to protract the litigation so as to defeat the right. In the instant case, it is noticed that the petition filed by the landlord is of the year 2004 which was disposed of by the Rent Controller only in the year 2011. The appeal was thereafter disposed of by the appellate authority in the year 2013. The High Court had itself taken time to dispose of the revision petition, only on 6-3-2017 [Soundara Rajan v. D. Sasikumar, 2017 SCC OnLine Mad 37589]. The entire delay cannot be attributed to the landlord and deny the relief. If as on the date of filing the petition the requirement subsists and it is proved, the same would be sufficient irrespective of the time lapse in the judicial process coming to an end. This Court in Gaya Prasad v. Pradeep Srivastava [Gaya Prasad v. Pradeep Srivastava, (2001) 2 SCC 604] has held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the bona fide requirement of landlord is the date of application for eviction, which we hereby reiterate."

[Emphasis supplied]

8. The *bona fide*, need as was set out by the Respondent/landlord in *RC.REV. 146/2023* was with respect to the *bona fide* need of his daughter-in-law. This is clearly not the same need as has been set out in the present Petition which is for the need of the Respondent/landlord's son.



9. The Petitioner/tenant has also filed an additional Affidavit along with a copy of an Eviction Order dated 27.04.2024 wherein another shop has become available to the Respondent/landlord. In view of an Eviction Order being passed by learned Trial Court in **RC.ARC No.30/2022 captioned Smt. Urmila Bali v. Sh. Shankar Lal**. The Petitioner/tenant has also placed on record a copy of the Revision Petition filed by the said tenant which is listed as **RC.REV. 276/2024 captioned Shankar Lal v. Urmila Bali (D) Thr LR Vijay Kumar Bali** alongwith order dated 07.10.2024 passed by this Court which shows that Notice in the matter have been issued by the Court. Thus, quite clearly in terms of the documents filed by the Petitioner himself, the premises are not available even today to the Respondent/landlord as a Revision Petition is pending before this Court.

10. In any event, as set out in paragraph 5 of the order dated 27.04.2024 in the abovementioned case **RC.ARC No.30/2022**, the requirement of that shop was for the daughter-in-law of the Respondent/landlord. The relevant extract is below:

"5. The Petitioner **has filed the present petition for bonafide requirement of her daughter-in-law, namely, Anjana Bali, who was previously working at Swidser Instruments Ltd. with effect from the year 1995 till 2017. Since the year 2017, she is sitting idle at home and now requires the tenanted premises for carrying her own independent business of boutique** ...

[Emphasis supplied]

11. In view of above discussions, no ground has been made out to consider this Application.

12. The Application is accordingly dismissed.

**RC.REV. 530/2015**

13. The present Petition has been filed by the Petitioner/tenant seeking to challenge Order dated 08.04.2015 passed in Eviction Petition No. 69/2013 titled *Smt. Urmila Devi v. Arvinder Singh* by the Ld. Additional Rent Controller, South, Delhi [herein after referred to as “Impugned Order”]. By the Impugned Order, the Application for leave to defend/contest filed under Section 25B of Delhi Rent Control Act, 1958 [hereinafter referred to as “the Act”] was dismissed and the Respondent/landlord was held entitled to the premises i.e. Shop no. 1, 876-B, Ward No.6, Mehrauli, New Delhi.

14. The matter was listed for hearing before this Court on 14.10.2024 when learned Counsel for the Petitioner/tenant was briefly heard and the Petitioner/tenant had restricted his arguments to the fact that need of the son of the Respondent/landlord is not *bona fide* need since he is already employed in Government service. The following was recorded by this Court:

“6. Learned Counsel of the Petitioner has been briefly heard. He has raised one contention. It is contended, relying on his Application for Leave to Defend, that admittedly the son of the Respondent (who is now been impleaded as Respondent) was employed in the National Rural Health Mission in terms of what is set out in paragraph 18(a)(v) of the Eviction Petition, and thus, he does not have any need to run an additional business. It is further contended that since the Respondent is employed in Government service, he cannot run any other business and his need is not bonafide.

7. Learned Counsel for the Petitioner submits that he was not given an opportunity by the learned Trial Court to summon the records of the Government of Haryana to show the proof of employment of Respondent.”

15. On 23.10.2024, the Respondent/landlord had concluded his arguments. Thereafter, multiple adjournments taken by the Petitioner to conclude his arguments. This Court had on 22.11.2024, directed that no



further adjournment will be given. Thereafter, instead of making submissions, the Petitioner/tenant sought adjournments and has filed an Application on 05.11.2024 and filed an additional Affidavit on 25.11.2024. The Application being **CM APPL. 66030/2024** has been dismissed by the Court today.

16. Concededly, the Impugned Order was passed almost 10 years ago and the Revision Petition challenging the same has been pending before this Court since then. The conduct of the Petitioner/tenant has been to ensure that the adjudication of this Petition is prolonged and delayed. The Supreme Court in the **Gaya Prasad** case and **D. Sasi Kumar** case has cautioned against such delay tactics and has stated that it should not be encouraged.

17. As discussed above and in view of the need as set out of other shops as is for other family members, it cannot be said that there is availability of suitable accommodation. Since, the shop which has been admittedly vacated is for the requirement of the daughter-in-law of the Respondent, this cannot be a subsequent event which will extinguish/eclipse the *bona fide* need of the Respondent/landlord's son in the present case. This contention of the Petitioner/tenant is therefore rejected.

18. The only other contention that was raised by the Petitioner/tenant is that the son of the Respondent/landlord already has a government job in Haryana and thus, the need cannot be *bona fide*. The Respondent/landlord on that behalf has contended that his son is employed on a contractual basis and is not a permanent employee of National Rural Health Commission. The Respondent/landlord also filed his contractual agreement with the



Government which also finds mention in the Impugned Order. The learned Trial Court found that the employment of the son of the Respondent/landlord was set out by the Respondent/landlord himself in the Eviction Petition and it was also stated that the monthly salary of the Respondent/landlord is inadequate to support his family. The relevant extract of the Impugned Order in this regard is below:-

“21. The petitioner herself has declared that her son Sh. Vijay Kumar Bali is working temporary at a monthly salary of Rs10,625/- which is insufficient and inadequate for maintaining his family consisting of his wife and two children. The petitioner also disclosed about two other shops which are already under the tenancy of Sh. Yogesh Garg and Sh. Mohan Das Sindhi. The respondent has not challenged about ownership of the petitioner and her family size. The petitioner has filed a copy of the contractual employment under NRHM presently undertaken by her son. The respondent has only claimed that Sh. Vijay Kumar Bali is gainfully employed but has not filed any details whatsoever...”

[Emphasis supplied]

19. Thus, this contention has already been dealt with by the Impugned Order and there is no document or averment has been placed on record by the Petitioner/tenant on the basis of which the bona fide requirement of the Respondent/landlord's son is challenged or a different opinion can be drawn by this Court.

20. It is settled law that a landlord does not require to leave his employment as a pre-condition to file his Eviction Petition. [See:***Raghunath G. Panhale v. Chaganlal Sundarji and Company***⁷]

21. The scope of examination by this Court in a Revision Petition filed under Section 25(B)(8) of the Delhi Rent Control Act, 1958 is well settled.



The Supreme Court in *Abid-ul-Islam v. Inder Sain Dua*⁸ has held that the jurisdiction of this Court is only revisionary in nature and limited in scope. The Supreme Court while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the said Act has held that this is a conscious omission. The High Court is not expected to substitute and supplant its view with that of the learned Trial Court, its only role is to satisfy itself on the process adopted. Thus, the scope of revisionary jurisdiction of this Court has been limited to examine if there is an error apparent on the fact of the record or absence of any adjudication by the learned Trial Court, and it is only then should the High Court interfere. The Supreme Court has also cautioned from converting the power of superintendence into that of a regular first Appeal under revisionary jurisdiction. The relevant extract of the *Abid-ul-Islam* case is as follows:

“Scope of revision

“22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.

23. The proviso to Section 25-B(8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the

⁷ (1999) 8 SCC 1

⁸ (2022) 6 SCC 30



High Court is very restrictive and except in cases where there is an error apparent on the face of the record, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.

xxx

xxx

xxx

25. The aforesaid decision has been recently considered and approved by this Court in Mohd. Inam v. Sanjay Kumar Singhal [Mohd. Inam v. Sanjay Kumar Singhal, (2020) 7 SCC 327 : (2020) 4 SCC (Civ) 107] : (SCC pp. 340-41, paras 22-23)

“22. This Court in Sarla Ahuja v. United India Insurance Co. Ltd. [Sarla Ahuja v. United India Insurance Co. Ltd., (1998) 8 SCC 119] had an occasion to consider the scope of proviso to Section 25-B(8) of the Delhi Rent Control Act, 1958. This Court found, that though the word “revision” was not employed in the said proviso, from the language used therein, the legislative intent was clear that the power conferred was revisional power. This Court observed thus : (SCC p. 124, para 11)

‘11. The learned Single Judge of the High Court in the **present case has reassessed and reappraised the evidence afresh to reach a different finding as though it was exercising appellate jurisdiction.** No doubt even while exercising revisional jurisdiction, a reappraisal of evidence can be made, **but that should be for the limited purpose to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.**’

It could thus be seen, that this Court has held, that the High Court while exercising the revisional powers under the Delhi Rent Control Act, 1958 though could not reassess and reappraise the evidence, as if it was exercising appellate jurisdiction, however, it was empowered to reappraise the evidence for the limited purpose so as to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.

[Emphasis supplied]

22. In view of the foregoing discussions, this Court finds no ground to



2024:DHC:9847



entertain the present Revision which is accordingly dismissed. All pending Applications stand closed.

TARA VITASTA GANJU, J

NOVEMBER 27, 2024/pa/g.joshi/r

Click here to check corrigendum, if any