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

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Date of Decision: 7th April, 2025

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**CM(M) 642/2025 & CM APPL. 20312-20313/2025
M/S MAHALAXMI HARDWARE**

.....Petitioner

Through: Mr. Sumit Thakur and Mr. Mandeep
Singh, Advocates.

versus

SMT NEETU GUPTA

.....Respondent

Through: Mr. Manish Kaushik, Mr. Mainak
Sarkar and Mr. Yashpriya Saharan,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending an eviction petition which has been filed on the ground of *bona fide* requirement under Section 14(1)(e) of Delhi Rent Control Act, 1958.
2. As per learned counsel for respondent, who appears on advance notice, the case is fixed for final arguments before the learned Controller tomorrow itself whereas according to petitioner, it is at the stage of RE.
3. The grievance of the petitioner in the present petition is with respect to dismissal of its application moved under Section 151 CPC.
4. The petitioner is, admittedly, a tenant of a ground floor shop situated at A-6, Kamla Nagar, Delhi-110007.
5. According to petitioner/tenant, it has learnt that the landlord has



already got a building plan sanctioned in respect of said tenanted shop and full-fledged construction is going on in the building in question, which itself goes on to indicate that the requirement of the landlady is not a *bona fide* one. Accordingly, petitioner/tenant moved an application before the learned Rent Controller seeking permission to place on record such subsequent events, which are stated to be as under:-

“i) The petitioner has obtained sanction for constructing Basement Floor, Stilt Floor, Ground Floor, Mezzanine Floor, First Floor, Second Floor and Third Floor in respect of the property bearing no. 6-A, Kamla Nagar, Delhi- 110007.

ii) Further the construction which is sought to be raised by the petitioner in the property in question is for residential purpose with no provision for the suit shop which is presently existing on the ground floor of the property. Even the other two shops including the Second Big Shop on the Ground Floor of the Property shall cease to exist, as in place thereof, the Stilt Parking Space is going to be constructed.

iii) It is evident from the alleged sanctioned Building Plan that in the building in question, after completion of construction, the building shall have a Upper Ground Floor which has provision for Bed Rooms for residential use and there would be no Ground Floor as existing today with the shops including the suit shop.

iv) Thus the petitioner no longer requires the suit shop, for the alleged bona fide as purpose set out in the instant eviction petition but rather to facilitate construction of the building as per the alleged sanction plan i.e., constructing STILT PARKING there, after demolishing the Suit Shop. It is demolished the other two vacant shops existing on the Ground Floor of the property no. 6-A, Kamla Nagar, Delhi-110007.”

6. The learned Rent Controller has dismissed the abovesaid application, while observing that the abovesaid facts cannot be termed as subsequent events. It has been observed that whether or not, the petitioner would, eventually, use the premises for commercial or residential requirement, is not something which can be decided at this stage.

7. Quite clearly, the apprehension expressed by the petitioner/tenant seems to be not only pre-mature but mis-founded as well.



8. It is imperative for any landlord to prove and demonstrate its case for *bona fide* requirement. Even after a decree is passed in favour of any such landlord, the tenant is not remediless as it can always seek re-entry in terms of Section 19 of Delhi Rent Control Act, 1958.

9. Mere fact that some construction is going on and there is a sanctioned building plan, would not, in itself, indicate that the element of *bona fide* requirement evaporates in air. The alleged construction, in itself, would not mean that the eviction petition has become infructuous.

10. The case is already at the stage of final arguments and the Court has to simply assess whether the petitioner has been able to demonstrate the element of *bona fide* requirement or not. The alleged construction has no relevancy with such *bona fide* requirement as the tenant, even otherwise, cannot dictate landlord as to how such landlord should use his premises. The tenant also cannot command his landlord as to how the building is to be restructured.

11. Viewed thus, this Court does not find any illegality or perversity in the impugned order. The intent behind moving said application is to delay the disposal on the basis of certain facts and events which are speculative in nature.

12. The petition, along with pending applications, stands dismissed.

(MANOJ JAIN)
JUDGE

APRIL 7, 2025/ss/js