

**M/S. Technofab Engineering Ltd. Vs. Lt. Col. Ved Kumar Slehria**

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**Court :** Delhi

**Decided On :** Sep-04-2014

**Judge :** Valmiki J. Mehta

**Appellant :** M/S. Technofab Engineering Ltd.

**Respondent :** Lt. Col. Ved Kumar Slehria

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI + RC. REV. No.243/2013 and C.M. No.10582/2013 (stay) 4th September, 2014 % M/S. TECHNOFAB ENGINEERING LTD. ....Petitioner Through: Mr. P.K. Sharma, Advocate. VERSUS LT. COL. VED KUMAR SLEHRIA Through: ..... Respondent Mr. M. V. Chandra, Advocate. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This revision petition is filed under Section 25-B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the Act) impugning the order of the Additional Rent Controller dated 1.4.2013 by which the leave to defend application filed by the petitioner/tenant/company has been dismissed and eviction has been ordered with respect to the tenanted premises being flat no.509, Eros Apartment, 56 Nehru Place, New Delhi-19 as shown in red colour in the site plan. The respondent/landlord retired from Army as a Lieutenant Colonel and the bonafide necessity eviction petition was filed stating that daughter of the respondent/landlord, namely Ms. Isha Deewan is MA in English and has teachers

training qualification and has also taught in various senior secondary schools and has been doing pro bono English language teaching and consultancy and that the respondent alongwith his daughter wants to open a training/teaching institute. It is also prayed that the tenanted premises would be used for the consultancy business by the daughter.

2. In a bonafide necessity petition, there are three aspects which are required to be shown for the landlord to succeed. Firstly, there must be a relationship of landlord and tenant between the parties. Secondly, the landlord must need the premises for his own need and/or the need of his family members and thirdly, the landlord does not have any alternative suitable accommodation.

3. So far as the first and third aspects i.e existence of relationship of landlord and tenant and the landlord not having an alternative suitable accommodation is concerned, there is no dispute. This Court only has to examine whether the respondent/landlord has a bonafide need as stated/pleaded.

4. Counsel for the petitioner argues that there is no bonafide need because in the legal notice given prior to the filing of the eviction petition on 14.5.2011, it was stated that the property is required for the consultancy business of the daughter whereas in the eviction petition it is stated that respondent, after retirement, wants to start an institute alongwith his daughter as also the consultancy business of the daughter. It is argued that this discrepancy shows that there is no bonafide need. It is also argued that a bonafide need is different than a desire.

5. In my opinion, there is no illegality in the order of the Additional Rent Controller because once the respondent/landlord has no other suitable commercial premises, surely a person can at a point of time decide that he can open a teaching institute alongwith his daughter who is already having necessary qualifications. A want to remain occupied after retirement alongwith the need to help the daughter in the teaching and consultancy work, cannot be said to be a mere desire but is surely a bonafide need in the facts of the present case.

6. The Additional Rent Controller in this regard has made the following relevant observations in the impugned order dated 4.9.2014:

Perusal of notice under Section 106 of Transfer of Property Act 1882 read with Section 6A of the Act issued by the petitioner through his advocate to the respondent herein on 14.5.2011 reveals that even on that day, the petitioner had stated in para 3 that, The aforesaid property is urgently required by the daughter of my client to set up her own consultancy business. The present petition was filed on 20.12.2011. Thus, it can be safely said that the ground raised in the petition is not new or improvised but existed on 14.5.2011 also. A conjoint reading of the aforesaid extract from the legal notice with para (f) of Annexure A to this eviction petition would clearly indicate that petitioners daughter Isha Deewan is stated to be well qualified in English and that petitioner wants to open the said institute of training with the help of his qualified daughter. By saying so, the petitioner claims unto himself the bonafide requirement of his own for which he is dependent upon the help of his daughter. The petitioners contention that he does not have any other commercial accommodation in Delhi or outside besides the tenancy premises, is not under challenge. Even otherwise, it is well settled law that bonafide requirement can be very much with for the petitioner himself or for any of the petitioners family member. Further more, it is also a settled law that petitioner has every right of carrying any business of his choice for the purpose of advancing the quality of his life. It is held in Tarsem Singh Vs. Gurvinder Singh 173(2010) DLT379that, If the landlord wants to start his own business in premises owned by him, by no stretch of imagination it can be said that requirement of landlord for premises is neither genuine nor bona fide.

7. In view of the above, I do not find any illegality in the impugned judgment of the Additional Rent Controller which calls for interference by this Court in this revision petition, and the same is therefore dismissed, leaving the parties to bear their own costs. SEPTEMBER04 2014/Ne RC. REV. No.243/2013 VALMIKI J.

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