

Sh. Ashok Vs. Sh. Gagan

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Court : Delhi

Decided On : Oct-30-2014

Judge : Valmiki J. Mehta

Appellant : Sh. Ashok

Respondent : Sh. Gagan

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI RC.REV.No.237/2013 & C.M.No.10425/2013 (Stay) 30th October, 2014 % SH. ASHOK Through:Petitioner Mr.Durgainder Singh, Advocate. VERSUS SH. GAGAN Through: Respondent Mr.Vikas Aggarwal with Mr.Karan Arora and Mr.Karan Lamba, Advocates. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This petition under Section 25B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the Act) is filed by the petitioner/tenant impugning the judgment of the Additional Rent Controller dated 09.5.2013 by which the Additional Rent Controller has dismissed the leave to defend application and decreed the bonafide necessity eviction petition filed under Section 14(1)(e) of the Act with respect to the suit/tenanted premises being one shop on the ground floor of the property bearing no.B-9, Subhash Chowk, Laxmi Nagar, Delhi.

2. The case as set up by the respondent/landlord was that he did his B- Tech in the year 2005 and MBA in the year 2007, whereafter he worked as an Assistant Marketing Manager with Havells India Ltd. from 2007 to 2010. The respondent/landlord thereafter in 2010 left the job and got the dealership of electronic goods with Bluestar and Mitsubishi Company. He has filed the documents showing his dealership with the said companies. The respondent/landlord stated that he had taken on rent a tenanted premises at 471, Patparganj, Delhi as a godown at a monthly rental of Rs.10,000/- and he wants to use the tenanted shop for electronic goods business inasmuch as though he has with him two shops, but even if the tenanted shop is vacated, he will only have an area of 24 x 24 ft., and which area is required for the showroom/shop of electronic goods. The respondent/landlord also stated that his wife is an Advocate and she also requires a space for her own office, and which will be only if the shop with the petitioner/tenant is joined with two shops which the respondent/landlord has.

3. The petitioner/tenant in his leave to defend application had essentially pleaded two aspects. The first aspect which was pleaded was that the respondent/landlord has an adjacent open space on which he can make construction of shops and the second aspect which was pleaded is that the respondent/landlord has two shops, and therefore the eviction petition has no merits. Before me also the aforesaid two grounds are urged for allowing of the petition by granting leave to defend.

4. In my opinion, both the grounds urged on behalf of the petitioner/tenant have no merits. Firstly even if the two shops already with the respondent/landlord are taken along with the tenanted shop with the petitioner, then the respondent/landlord will only have an area of 24 x 24 ft. Surely the area of 24 x 24 ft. by no stretch of imagination is an exceptionally large area for the respondent/landlord not to claim, because such amount of area/space is bonafidely required for running of a showroom/shop of electronic goods/items. A tenant cannot dictate to the landlord that the landlord should not have an area of 24 x 24 ft. for carrying and continuing with the business of electronic goods because it is perfectly legitimate for the landlord to claim a reasonable area for conduct of his business. Secondly the wife of the respondent/landlord is an Advocate and the desire of the respondent/landlord to have a space where his wife can run her office of an

Advocate cannot also be said to be a malafide demand.

5. I may note that in a bonafide necessity eviction petition under Section 14(1)(e) of the Act, three grounds are required to be seen; firstly there exists a relationship of landlord and tenant between the parties; secondly the premises are required bonafidely for the use of the landlord himself and/or his family members, and thirdly that the landlord has no other suitable alternative accommodation. In the present case, there is no issue raised/argued with respect to relationship of landlord and tenant and that the respondent is the owner of the suit/tenanted premises. So far as the aspect of bonafide need and suitable alternative accommodation is concerned, it is already discussed above that even by merger of the tenanted shop with the two shops with the respondent/landlord, the respondent/landlord will only have an area of 24 x 24 ft, and which surely is a reasonable demand.

6. In view of the above, there is no merit in this petition, and the same is therefore dismissed, leaving the parties to bear their own costs. VALMIKI J.

MEHTA, J OCTOBER30 2014 KA

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