

Shri Atul Kumar Vs. Shri Narinder Kumar

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Court : Delhi

Decided On : Oct-29-2014

Judge : Valmiki J. Mehta

Appellant : Shri Atul Kumar

Respondent : Shri Narinder Kumar

Advocate for Pet/Ap. : Mr. Umesh Shukla

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + CM(M) No.955/2014 & CM No.17589/2014(stay) % 29th October , 2014 SHRI ATUL KUMAR Through:Petitioner Mr. Umesh Shukla, Adv. VERSUS SHRI NARINDER KUMAR Through: Respondent CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. It is not unknown that tenants who contest eviction petitions filed under the Delhi Rent Control Act, 1958 (hereinafter referred to as the Act), use all tricks in the book and not in the book to keep on delaying the disposal of the eviction petitions. The present petition under Article 227 of the Constitution of India is one such petition and filed clearly in abuse of the process of the law.

2. The impugned order dated 6.9.2014 which is challenged by the petitioner/tenant, and who is the respondent in the court below, dismissed an application filed by the petitioner/tenant to recall PW-1 for crossexamination. The

main eviction petition which is filed is for non-payment of rent and for bonafide necessity under Section 14(1)(a) & (e) of the Act.

3. The impugned order notes that the cross-examination of PW-1 was already closed earlier vide order dated 6.9.2013, inasmuch as, petitioner/tenant had taken repeated adjournments for cross-examining PW-1 but yet did not conclude the cross-examination, resulting in the order dated 6.9.2013 closing the right to cross-examine PW-1. This order dated 6.9.2013 has not been challenged and hence has attained finality.

4. Surely, once the order dated 6.9.2013 has become final, then what cannot be done directly also cannot be done indirectly ie if evidence of PW-1 was closed then, subsequently, PW-1 again cannot be recalled in the guise of seeking right to confront the PW-1 with documents. Also, there is no reason why instead of confronting PW-1 with documents which are now sought to be proved by the respondent, the same cannot simply be proved by the petitioner/tenant in his own evidence.

5. In view of the above, it is clear that the petitioner/tenant intends to keep on delaying and dragging the eviction petition which is filed against only on the petitioner, and therefore considering the delaying tactics of the petitioner, this petition is dismissed with costs of Rs.20,000/- and payment of which costs to the landlord(respondent herein) shall be a condition precedent for the petitioner/tenant to continue with pursuing all his defences in the court below. Copy of this order be sent to the trial court to ensure compliance of the same. OCTOBER29 2014 ib CMM-955/2014

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