

Sumer Singh & Anr. Vs.sunder Lal Gupta & Anr.

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Court : Delhi

Decided On : Apr-05-2018

Appellant : Sumer Singh & Anr.

Respondent : Sunder Lal Gupta & Anr.

Advocate for Def. : Ms. Nishtha Garg

Advocate for Pet/Ap. : Mr. Rajat Aneja, Mr. Deepak

Judgement :

\$~15 + IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on :-

"5th April, 2018 RC Rev. 107/2016 SUMER SINGH & ANR.

... Petitioner

s Through: Mr. Rajat Aneja, Mr. Deepak & versus Ms. Chandrika Gupta, Adv.
SUNDER LAL GUPTA & ANR.

... RESPONDENTS

Through: Ms. Nishtha Garg, Adv. CORAM: HON'BLE MR. JUSTICE R.K.GAUBA
ORDER (ORAL) 1. The respondents concededly are the owners of property described as bearing no.489, Teliwara, Shahdara, Delhi - 110031, of which one shop at ground floor (the subject premises) forms a part. The petitioners were concededly inducted as tenants in the said premises wherein they would run business in the name and style of Binni Garments. The respondents had instituted

eviction case (E- 105/14) on 01.10.2014 against the petitioners under Section 14 (1) (e) of Delhi Rent Control Act, 1958 primarily on the ground that they required the subject premises for purposes of accommodating the need of Ms. Bharti Gupta, daughter of the second petitioner, who intended to set up a homeopathic clinic after completion of the course of study RC Rev. 107/2016 Page 1 of 4 leading to the degree of Bachelor in Homeopathic Medicine and Surgery (BHMS) by February, 2015, the plea also being that, for such purposes, the respondents (landlords) do not have any suitable alternative accommodation. The petitioners (tenants), upon being summoned under Section 25 B of Delhi Rent Control Act, 1958 filed an application for leave to defend, the prime contention being that sufficient accommodation is available but the utilization thereof had not been properly explained. The Additional Rent Controller considered the said application but dismissed it by order dated 29.10.2015 consequently granting an order of eviction in favour of the respondents. It is the said order, the correctness, legality and propriety whereof is challenged by the petition at hand.

2. Having heard the learned counsel on both sides and having gone through the record, this Court finds no merit in the revision petition which consequently is liable to be dismissed.

3. It is clear from the pleadings and submissions of both sides that the respondent landlords have available to them four other properties including one described as C-66, Gali No.8, Jyoti Colony, Shahdara, Delhi, which is residential, no part whereof can be cited as an alternative accommodation for aforementioned needs of Ms. Bharti Gupta. The properties owned also include one room measuring 18 square yards situate at ground floor in property bearing No.329, Teliwara, Shahdara, Delhi which is under mixed land use, it presently being utilized by Smt. Nisha Gupta, daughter-in-law of the first respondent for her legal practice since 2008. RC Rev. 107/2016 Page 2 of 4 4. Thus, there are primarily two properties which are under the scanner for examining the plea of the petitioners as to the availability of sufficient place, one bearing No.489, Teliwara, Shahdara, Delhi of which the subject premises is a part and the other closely located property bearing No.487, Teliwara, Shahdara, Delhi. While property No.489 is jointly owned by the respondents, property No.487 is jointly owned by their respective wives. The

second said property is used by the said wives of the respondents for running their respective businesses in the name and style of Handloom Emporium and Vandana Cloth House from the ground and first floor portion, the entire second floor stated to be in use as a godown.

5. The property No.489 also comprises of ground floor, first floor and second floor. The portion other than the subject premises at the ground floor is stated to be in use of the respondents for purposes of their businesses in the name and style of M/s Aggarwal Textile and M/s Garg Textile. It has been explained by the respondents that the first floor of this property is used by Harish Gupta, son of the first respondent for running his business in the name and style of M/s Aggarwal Sarees. It is explained that the entire second floor is used by all the said three business firms commonly as godown.

6. The thrust of the argument of the petitioners has been that there is no clear explanation as to the use of the second floor of property numbers 487 or 489, nor the claim of such portions being used as godown having been substantiated by any material. It is their submission that real facts are being concealed and that the second RC Rev. 107/2016 Page 3 of 4 floor accommodation in either of the two properties is the alternative accommodation available for purposes of Ms. Bharti Gupta.

7. In considered opinion of this Court, the above argument only needs to be noted and rejected. Noticeably, Ms. Bharti Gupta intends to set up a medical clinic. It is inconceivable that a medical clinic would be established at the second floor level of any property as that can hardly be described as an appropriate place for the patients to be expected to come up to.

8. Thus, the impugned order is found to be not suffering from any error or infirmity. The petition is dismissed. R.K.GAUBA, J.

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