

Wazir Chand Vs. Narain Devi Etc.

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SooperKanoon Citation : sooperkanoon.com/686093

Court : Delhi

Decided On : May-25-1977

Reported in : 1978RLR88

Judge : D.K. Kapur, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 14(1)

Appeal No. : Second Appeal No. 53 of 1977

Appellant : Wazir Chand

Respondent : Narain Devi Etc.

Advocate for Pet/Ap. : N.S. Das Behl and; P.D.Sharma, Advs

Judgement :

D.K. Kapur, J.

(1) This is an appeal instituted by the landlord U/S 39 of the [Delhi Rent Control Act, 1958](#), against an order whereby his petition for eviction U/S 14(1)(e) has been dismissed solely on the ground that the petition cannot be instituted because Section 19(1)(a) of the Slum Areas (Improvement and Clearance) Act, 1956 states that no suit for eviction can be filed without obtaining permission from the Competent Authority if the premises are situated in a slum area. The landlord did not dispute the fact that the premises are situated in the slum area and are

covered by the Act, but the contention was that on account of the amendment made by the Amendment Act of 1976, it was no longer necessary to get permission from the Competent Authority as the new Chapter IIA had introduced a new procedure for the trial of applications U/S 14(1)(e) and the newly introduced Section 14A. The Rent Controller found that as far as Section 14A was concerned, it had an over-riding effect over all laws and, therefore, no permission was necessary from the Competent Authority. But, as regards, Section 14(1)(e) he held that such permission was necessary. In these circumstances, he found that unless permission was obtained from the Competent Authority, no eviction order could be passed. It was also observed that an application seeking permission was already pending before the Competent Authority, An appeal was taken to the Rent Control Tribunal, who reached the same conclusion.

(2) The Rent Control Tribunal has given an additional reason for distinguishing between eviction proceedings U/S 14(1)(e) from those U/S 14A. It was stated there that Section 14A created a substantive right in favor of a special class of landlords whereas Section 14(1)(e) was not substantially available except to the extent that a new procedure had been introduced for trial of petitions instituted under that clause. A judgment of this court reported as *Om Prakash Gupta v. Ram Nath etc.* 1976, Raj. Law Reporter 613, and some other judgments were referred to, where it had been held that Section 14A provided a special procedure which did not require any pre-conditions, whereas cases U/S 14(1)(e) had to be decided in exactly the same way as before except when there was a different procedure.

(3) When this appeal came before me for admission, reference was made to a judgment of the Supreme Court in *Sarwan Singh v. Kasturi Lal*, : [1977]2SCR421 wherein it had been held that it was not necessary to get permission from the Competent Authority under the Slum Areas Act, 1956, for the purpose of proceedings U/S 14A. That judgment also makes some reference to proceedings U/S 14(1)(e) and it is observed that the procedure under 25B is of an over-riding nature of the provisions of Section 25A, which in turn over-ride the provisions of Section 54, wherein it was said :

'NOTHING in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956, or the Delhi Tenants Temporary Protection Act, 1956'.

It was observed that Section 25A had the effect of over-riding Section 54 and hence, in cases U/S 14A and Section 14(1)(e), permission U/S 19 of the Slum Area Act was not necessary. The rest of the judgment of the Supreme Court does not deal with cases U/S 14(1)(e), and it is only this small passage which was relied upon by the appellant to contend that the Slum Areas Act 1956 was not available to protect tenants against whom cases had been instituted U/S 14(1)(e) of the [Delhi Rent Control Act, 1958](#).

(4) After the admission of the appeal, I have heard the learned counsel for the appellant only on this short question. I am of the view that the judgment of the Supreme Court referred to above is obiter on the question whether the Slum Areas Act, 1956, continues to apply to cases U/S 14(1)(e) even after the Amendment Act of 1976. I am of the view that cases U/S 14A are completely different from cases U/S 14(1)(e). In the case of an eviction petition moved by landlords who are threatened with eviction from Government quarters on account of owning their own residential property, Section 14A says :

'...THERE shall accrue...to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary. a right to recover immediately possession of any premises let out by him.'

This right is often of an over-riding type which over-comes all other laws and all other laws and all other contracts Hence, even if there is a lease for 20 years, an immediate right to evict arises in favor of the landlord. In such a case, the tenant has no protection whatsoever. There is no such non-obstante clause in cases U/S 14(1)(e). The rights of landlords to get possession for their personal use remain as they were previously, only the procedure has been altered by the introduction of Section 25B. The special procedure is in fact a summary procedure analogous to that contained in Order 37, Rule 3, of the Code of Civil Procedure for trial of suits based on negotiable instruments. (It may be mentioned that the procedure has

been altered to some extent by the new amendment in the Code of Civil Procedure). thereforee, as far as the substantive rights of landlords U/S 14(1)(e) are concerned, there is no variation at all by new amendment.

(5) The next question for consideration is that although there is no alteration in the substantive rights of the landlords, is there any change in the necessity to get permission under the Slum Areas Act, 1956 The Supreme Court made a passing reference to the fact that Section 25A over-rides Section 54. As I have already reproduced Section 54 of the [Delhi Rent Control Act, 1958](#), it says that nothing in the Act will affect the Slum Areas Act, 1956. Section 25A of the new Act.

'THE provisions of this Chapter or any rule made there under shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act, or in any other law for the time being in force.'

(6) The question for consideration is whether there is anything inconsistent with the provisions of Chapter Iia and the Slum Area Act. 1956, was amended in 1964 and introduced a new section which was not there when the [Delhi Rent Control Act, 1958](#) was passed. The new Section which was introduced by the Central Act 43 of 1964 requires that no eviction proceedings can be instituted in respect of land or building in a slum area except after getting the permission of Competent Authority. This Section is different from the Section as it stood in 1958, when it merely provided that permission to execute the decree passed by the Court was necessary. The real question for consideration U/S 14(1)(e) is whether the necessity to get previous permission is at all affected by Section 25A of the new Act. I have given anxious consideration to this question and I find nothing inconsistent between the procedural alteration introduced by Section 25B and the necessity to get prior permission under Section 19 of the Slum Areas Act, 1956. In fact, the two Sections deal with independent matters. Section 19, as it now stands after the amendment of 1964, merely prevents a person desiring an eviction order in respect of property situated in the Slum Areas to get prior permission from the Competent Authority. Certain guidelines have been given by the amendment as to the manner in which the Competent Authority shall give such permission. Previously, there were no guidelines. Thus, the position of law is that a landlord

who wants to evict anybody from a building situated in a slum area has to first get prior permission from the Competent Authority. This permission is not necessary in a case U/S 14A, because in that Section it is specifically provided that an immediate right accrues in favor of the landlord to get possession of premises as such a landlord being a Government servant has been asked to vacate premises allotted to him by the Government, etc. In such a case, whatever the Slum Areas Act may say, there is an immediate right to get possession. It is not necessary to terminate the tenancy, it is not necessary for the tenancy to come to an end by efflux of time. In fact, a landlord who comes within the provisions of Section 14A has been given exceptional power to break all agreements and overcome all obstacles. I cannot find from the Act that some exceptional powers have been given to persons applying U/S 14(1)(e) -

(7) The question still remains : Is there inconsistency between the Slum Areas Act, 1956, and Section 25A of the [Delhi Rent Control Act, 1958](#) The provisions of Sections 25A merely show that the provisions of the of the Chapter over-rule anything inconsistent with it given in any other law. The chapter consists only of Sections 25A, 25B and 25C. Section 25A merely provides that the Chapter will over-ride all other laws; Section 25B gives a new procedure and Section 25C modifies certain provisions contained in Section 14,. It, therefore, follows that there is nothing inconsistent between this Chapter and Section 19(1)(a) of the Slum Areas Act, 1956. In spite of the fact that Section 54 saves the Slum Areas Act, 1956, and may be said to be non-operative, this does not mean that a substantive Act passed in 1964 creating a new right in favor of tenants has also been overcome by Section 25A. In face, I do not find any difficulty in reading the two provisions consistently with each other. Before a landlord files a petition u/s 14(1)(e) he has to get the permission of the Competent Authority u/s 19(1)(a) if he wants to institute proceedings in relation to property situated in a slum area. If he does not get such permission, he cannot institute the case. If he gets the permission, he can institute the case and then the procedure will be in accordance with Section 25B of the amended Act. The provisions of Section 19(1)(a) and the provisions of Sections of Section 25B operate in different spheres, because one provision operates at a stage prior to the institution of the proceedings and bars the institution of proceedings except with permission, whereas Section 25B only

provides a procedure for the trial of such proceedings when instituted. As the two Sections do not operate in the same field, there is nothing inconsistent between them. As this point was taken before the Supreme Court in Sarwan Singh's case, I cannot read that judgment to mean that the amended Slum Areas Act, 1956, as amended by Act of 1964, is not to apply to eviction proceedings if they are instituted u/s 14(1)(e) of the [Delhi Rent Control Act, 1958](#). Of course, if the Slum Areas Act, 1956, had not been amended in 1964, then the positions would be that Section 54 which saved the Slum Areas Act, 1956, might be read as having been over-ruled if there was any inconsistency between the procedure prescribed by Chapter Iiia and the procedure prescribed by the un-amended Slum Areas Act. After the 1964 amendment, the Slum Areas Act of 1956 applies of its own force and being a Central Act cannot be impliedly repealed unless there is some inconsistency between it and the [Delhi Rent Control Act, 1958](#). As noted above, I do not find any inconsistency; I find that the Acts can operate together and do not impinge with each other in any way. Hence, in my view, a landlord has to first get a permission u/s 19(1)(a) of the Slum Areas Act, 1956. before he can institute proceedings u/s 14(1)(e), of the Delhi Rent Control Act 195S, in respect of premises situated in the Slum areas. An alteration in the procedure or manner of dealing with petitions u/s 14(1)(e) does not in any way affect the manner in which permission has to be obtained, because the permission is a stage interior to the institution of proceedings under the [Delhi Rent Control Act, 1958](#).