

Bhagwati Devi Vs. Ram Doss

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Court : Delhi

Decided On : Aug-31-1978

Reported in : 1979RLR30

Judge : R.N. Aggarwal, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 15(1)

Appeal No. : Second Appeal No. 169 of 1978

Appellant : Bhagwati Devi

Respondent : Ram Doss

Advocate for Pet/Ap. : R.P. Bansal and; U.L. Watwani, Advs

Judgement :

R.N. Aggarwal, J.

(1) There is abundant and unimpeachable evidence on the record to prove that the Respondent Ram Dass is the owner of the property in dispute. The property in dispute was previously owned by one Mst. Zeenat Bee. Ram Dass had obtained a decree for Rs 1,815 against Zeenat Bee. In execution of the said decree, the property in dispute was put to auction and it was purchased by Ram Dass. The Custodian of Evacuee Property filed objections against the sale of the property on the ground that the property belonged to the evacuee. Pyare Lal, husband of

Bhagwati Devi, petitioner No. 1, and father of Ram Kishan, petitioner No. 2, had also filed objections against the above sale. The objections against the above sale. The objections were dismissed by the Sub Judge and against that order an appeal was taken to the High Court by the Custodian of evacuee property. The appeal was heard by Mr. Justice P.D. Sharma and on 8th August 1963 he dismissed the appeal of the Custodian (Ex. AWI/22) The objections filed by Pyare Lal were dismissed by Mr. Justice Tek Chand on 26th October 1960 (Ex. AWI/22). (It appears that both the documents have been given the same exhibit number).

(2) In or about 1972 Ram Dass filed an application against Pyare Lal before the Slums Authority for permission to institute proceeding for eviction of the tenant. The plea taken by Pyare Lal before the competent authority was that the applicant is not the owner of the property. This plea of the tenant was rejected by the competent authority and permission to institute proceedings for eviction were granted (Ex, AWI/20).

(3) Ram Dass filed a suit for recovery of Rs. 729 as rent against the present petitioners and this suit was decreed ex-parte on 23rd September 1976. The present application for eviction against Bhagwati Devi, Ram Singh, Ram Kishan and Shanti Devi was filed by Ram Dass on 6th April, 1977. The respondents in paragraph 2 of the] Preliminary Objections took the plea that the petitioner (Ram Dass) is not the owner of the suit property and, therefore, the relationship of landlord and tenant does not exist between the parties :-

(4) The petition for eviction was filed on the grounds of non-payment of rent and for bona fide requirement for personal use. The Additional Rent Controller Shri K.P, Verma deferred the question of making an order u/s 15(1) of the Delhi Rent Control Act on the ground that the tenant had denied the relationship of landlord and tenant. Against the above order Ram Dass went in appeal to the Tribunal. The Tribunal allowed the appeal and passed an order u/s 15(1) requiring the tenant to deposit the arrears of rent from 16th February 1973 onwards within one month of the order. Against the above order the petitioners have come in revision to this Court.

(5) On behalf of the petitioners it is contended by Mr. Bansal that there is no clear finding given by the Tribunal in the judgment that the relationship of landlord and tenant existed between parties and, therefore, no order u/s. 15(1) could be passed by Tribunal. The learned counsel referred to the following portion in para 5 of the judgment of the Tribunal in support of his contention :-

'SOprima facie it is evident from the judgment given by Judge, Small Cause Court that there exists relationship of landlord and tenant between the parties. Hence an order u/s. 15(1) was liable to be passed against the respondent.'

(6) A reading of the entire judgment of the Tribunal shows that he had actually found Ram Dass to be the owner of the property in dispute. Be that as it may, I have earlier discussed the evidence on record which, to my mind, leaves no doubt that Ram Dass is the owner of the property in dispute and the relationship of landlord and tenant exists between the parties. In the above view the appeal is dismissed.

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