

Shiv Lal Vs. Kartar Devi

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Court : Delhi

Decided On : Sep-19-1975

Reported in : 1977RLR473

Judge : B.C. Misra, J.

Acts : Transfer of Property Act - Sections 106; [Delhi Rent Control Act, 1958](#) - Sections 14

Appeal No. : Second Appeal No. 112 of 1975

Appellant : Shiv Lal

Respondent : Kartar Devi

Advocate for Pet/Ap. : H.S. Dhir and; S.L. Malhotra, Advs

Judgement :

B.C. Misra, J.

(1) APPELLANT'S father was a tenant who died on 25-7-67. On 15-1-70, landlord sent notice U/S 106, Tpa to all the L. R.s To appellant notice was sent to his address in a village in Karnal Distt. It was re-directed to him at the address of tenanted premises. It got refused. In court, tenant denied to have refused it and also challenged its legality. The Controller and Tribunal held against the tenant and he appealed to High Court. After giving above facts, judgment para 5 onwards

is :-

(2) Mr. Dhir, the learned counsel for the appellant has rightly not challenged the findings of fact but he has attacked the validity of the notice which had been given by the respondent to the legal heirs of the deceased tenant, The notice is Ex. Aw 7/6. It is addressed to Shiv Lal appellant before me and seven others. It recites that the original tenant was Shri Wadhawan Mal Narula., predecessor-in-interest of the addressee and an application for eviction had been instituted against him before the Additional Controller on the ground of unlawful sub-letting to the appellant before me and others but during the pendency of the said application the deceased tenant had died and his legal representatives had been brought on record but the application was subsequently dismissed. It was also averred that the appellant before me had claimed to be joint tenant in the premises with the deceased tenant and later on had asserted his claim in his capacity as an heir of the deceased tenant. The notice proceeded to aver that only the Appellant was in occupation of the premises but in view of the fact that in the aforesaid proceedings before the Additional Controller, they had claimed to be the heirs of the deceased and successors of the contractual tenant, they had all been imp leaded. The notice proceeded to determine the tenancy and called upon the addressees to vacate the premises. This is a common notice sent to eight persons including the appellant. It was personally delivered to Smt. Wazir Devi widow of the deceased, Shri Gursevak Lal, son of the deceased, Smt. Leelawanti wife of a son of the deceased and Smt. Raj Rani Kapoor. This notice had, therefore, been duly delivered and it can safely be inferred that the contents of the notice had been communicated to all the addressees who claimed to be in possession of the premises in dispute as tenants.

(3) So far as the appellant Shiv Lal is concerned, the notice was sent to his village address. The notice was addressed to Shri Shiv Lal s/o Shri Wadhawan Mal Narula, Village Beerd Amin, Tehsil and Distt. Karnal. The registered envelope was re-directed to the premises in dispute in Delhi and there it was refused to be taken delivery of. The learned counsel for the respondent did not feel content with the service but he affixed at the premises in dispute an identical copy of the said notice (Ex. AW7/23,) the pasting of which is evidenced by two witnesses. The

Tribunal below has followed the authority of the Supreme Court reported as Kanji Manji v. The Trustees of the Port of Bombay, : AIR 1963 SC468 , Ajit Kumar Roy & others vs. Sm. Satya Bala Dutt Mst. Saeedan v. Shri Jwala Pd. & Others, : AIR1973 Cal339 and Valiyayeettil Konnappan v. Mangot Velia Kunnivil Munrnam, Air 1968 Ker 229, to the effect that a notice addressed to all the tenants but served on one of the tenants constituted the sufficient determination of the tenancy. I agree with the finding of the court below that the proposition of law laid down by it is correct.

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