

Peter James Vs. Dewan Chand

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Court : Delhi

Decided On : Feb-09-1979

Reported in : 1979RLR192

Judge : H.L. Anand, J.

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

Appeal No. : Second Appeal No. 296 of 1978

Appellant : Peter James

Respondent : Dewan Chand

Advocate for Pet/Ap. : S.K. Luthra and; R.S. Bakshi, Advs

Judgement :

H.L. Anand, J.

(1) This Second Appeal by a tenant against the appellate order of the Rent Control Tribunal, affirming that of the Controller, allowing the eviction of the petitioner on the ground of the bona fide personal need of the landlord for a residence, must fail on the short ground that there is no justification to vary the concurrent findings of fact on the various questions in controversy between the parties.

(2) Eviction of the tenant was sought on the twin ground of non-payment of rent and bona fide personal need of the landlord for a residence. The first ground does not survive. Tenant resisted eviction on the ground that there was no relationship of landlord and tenant in that the premises had been taken by the tenant on rent from one Som Raj Sahni, an admitted co-owner of the property, and that, in any event, the landlord did not bona fide require the premises for a residence. The Controller dispelled both the contentions and held that on the sale of half share of the property by Som Raj Sahni, who until then exclusively owned it, to the respondent by A.W. 5/1 and on the settlement between them by A. 6/1, the respondent became the exclusive landlord, to whom the tenant has been atoning since then. It was further held that the landlord had since decided to shift to Delhi for health reasons and was living in a tenanted premises paying Rs. 105 as rent and his need for residence was therefore, bona fide and the tenanted premises could not be considered as suitable. The Tribunal has upheld the findings on both the 193 courts, the finding on the first count having been since reinforced by Ex. C. 1, a judgment of a Civil Court, between the parties, in a suit filed by the landlord against the tenant for recovery of rent. The tenant had not filed any appeal against the judgment of the Civil Court and the same has, therefore, become final.

(3) Shri Luthra, who appeared for the tenant sought to challenge the order of eviction on the ground that, on the material on record, Shri Som Raj Sahni and after his death, his widow and respondent were Co-landlords of the tenant and the petition for eviction could not be filed without impleading the widow of Som Raj Sahni and that, in any event, on the material available, the findings of the Court below, that the landlord bona fide required the premises for a residence, was perverse.

(4) There is no substance in the first contention and, in any event, in view of the concurrent finding of fact by the two Courts and the reinforcement provided by the Civil Court in its judgment, Exhibit C.I, there is no ground to interfere. The Courts below have held on the basis of Exhibit A.W. 5/1 that Som Raj Sahni, who was at one time the exclusive owner of the property, had sold 1/2 share to the respondent and that by compromise deed. Exhibit A.W. 6/1, in the suit for rendition of accounts between Som Rai Sahni and the respondent it was agreed that the

respondent would be entitled to recover rent from the appellant and two other tenants, and that by his endorsement of counter-foil marked '2' the tenant had attorned to respondent and had been paying rent to the respondent and the respondent therefore, became landlord of the tenant to the exclusion of the other co-owner. Both the Courts have also satisfactorily explained the circumstances in which the earlier receipts. Exhibit R-1 and R-2, may have been signed by the widow of Som Raj Sahni, who was not a stranger but the real sister of the respondent. However, if there was any possible scope for the tenant to assail the findings, it is negated by the decision of the Civil Court in the proceedings between the parties on the question of relationship between them, which has admittedly become final. It is therefore, not possible to vary the conclusion of the Courts below on this question.

(5) On the question of bona fide personal need, counsel was unable to meet the concurrent conclusion of fact by two Courts that the respondent had decided to shift to Delhi and was occupying a tenanted premises paying a high rent of Rs. 105 as against Rs. 35, on which the demised premises was held by the tenant and, therefore, bona fide required the premises for residence. Counsel for the tenant, however, raised a contention that, inasmuch as there was no specific averment in the petition for eviction that the premises in occupation of the respondent was not suitable for his requirements, one of the conditions for the grant of relief under Section 14(1)(e) had not been satisfied. There is no substance in this contention either. In para 18 (a) of the , petition, it was alleged that the landlord "has no suitable accommodation for his residence and for that of his family members dependent on him.' It is true that the petition does not specifically refer to the tenanted premises or the fact that the same are not suitable either because of the accommodation or because of their high rent. This contention, however, ignores the fact that when the petition was filed, the respondent could not possibly have made that averment because, according to the evidence the respondent acquired the tenanted premises after the petition was filed, apparently suspecting that it would take some time before the respondent could obtain an order of eviction and it is in the evidence of the respondent that until he took the premises on rent, he was staying with his sister. In any event, averment that he had no suitable accommodation compelled with high rent of tenanted premises

would be sufficient to satisfy requirement of law that existing accommodation was unsuitable.

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