

Tilak Ram Vs. Maya Devi

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Court : Delhi

Decided On : Nov-11-1976

Reported in : 13(1977)DLT14; 1977RLR34

Judge : Yogeshwar Dayal, J.

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

Appeal No. : Criminal Revision Appeal No. 596 of 1976

Appellant : Tilak Ram

Respondent : Maya Devi

Advocate for Pet/Ap. : R.S. Chaudhary and; K.L. Sethi, Advs

Judgement :

Yogeshwar Dayal, J.

(1) (ORAL). This is a petition filed by the tenant against the order dated 30th July, 1976 passed by the Rent Controller, Delhi rejecting the application of the petitioner seeking permission to contest the application for leave to defend the eviction application and deeming the allegations made in the application to be correct and passing order of eviction of the petitioner under Section 14A(1) of Act 18 of 1976 in favor of the respondent and against the petitioner.

(2) The respondent Maya Devi filed the application before the Rent Controller, Delhi, for an order for recovery of possession against the petitioner under section 14A(1) read with Sections 14(l)(e) and 25B of the Delhi Rent Control Act, as amended.

(3) In the eviction application, it was averred by the respondentlandlord that petitioner Tilak Ram was the tenant and that she is the owner of the premises. The premises were let out to the petitioner for residential purposes. It was further averred that the husband of the respondent was allotted government quarter No. 484, Sector No. 9, R. K. Puram, New Delhi where they were residing, which was allotted to him by the Central Government, and it is now required by the Government vide order dated 27th December, 1975 to vacate the said quarter or in default to incur certain obligations, that is, to pay rent at the market rate which is too much and the respondent and her husband cannot afford to pay. Hence the said quarter has to be vacated. The premises is, therefore, required bona fide by the respondent for her residence and the residence of her family members, dependent upon her. She has no other residential accommodation for her residence- It will thus be noted that the application for eviction was filed by the respondent both under Section 14A(1) and on the grounds contained in proviso (e) to Section 14(1) of the Delhi Rent Control Act, as amended.

(4) The present petitioner-tenant filed an application for leave to defend the petitioner and it was inter alias contended that he is entitled to leave to defend the petition. The Rent Controller has passed an order for eviction under section 14A(1) of the Delhi Rent Control Act, as amended. .:No order for eviction has been passed under proviso (e) to Sub-section (1) of Section 14 of the Act. It is the allegations made in the eviction petition for the purpose of section 14A(1) that were deemed to be correct and on that eviction order has been passed. Section 14A(1) of the Delhi Rent Control Act, as amended, reads as under:-

'14A.(1)Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government or any local authority is required, by, or in pursuance of, any general or special order made by that Government or authority, to vacate such residential accommodation, or in default,

to incur certain obligations, on the ground that he owns, in the Union territory of Delhi, a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, 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 : Provided that nothing in this section shall be construed as conferring a right on a landlord owning, in the Union territory of Delhi, two or more dwelling houses, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.'

(5) Who is the landlord who is entitled to the benefit as given in Section 14A(1)? The question is of the meaning of the words '..... there shall accrue, on and from the date of such order, to such landlord'. 'Such landlord' is given in the earlier part of the Section. The landlord contemplated must fulfill the following conditions :

(A) the landlord should be a person in occupation of any residential premises;

(B) such residential premises must have been allotted to him by the Central Government or any local authority;

(C) such landlord who is an allottee of such residential premises should be required by any general or special order made by the Government or authority to (i) vacate such residential accommodation or (ii) in default to incur certain obligations on the ground that he owns a residential accommodation either in his own name or in the name of his wife or dependent child, in the Union territory of Delhi.

All these conditions must exist before a landlord can file a petition under section 14A(1).

(6) In the present case, it is true that the respondent Maya Devi is the landlord of the premises in dispute but she is not a landlord of the type contemplated by Section 14A(1) for the simple reason that no residential premises were allotted to

her, nor was she required to vacate such residential accommodation. The respondent is thus not 'such landlord' within the meaning of Section 14A(1).

(7) Admittedly, in the present case, the residential accommodation was allotted to her husband. If at all, it is her husband who has been called upon to vacate the residential accommodation or in default to incur certain obligations. No such order was passed or could be passed by the Government or the local authority since no such residential premises were allotted to her. The application by the respondent under section 14A(1) was thus wholly misconceived and consequently the application for leave to defend the petition for ejectment under section 14A(1) should not have been dismissed and leave ought to have been granted to defend such a petition.

(8) It may be mentioned that the application which was filed by the respondent was a composite application. The ejectment was claimed therein also under proviso (e) to Section 14(1) of the Delhi Rent Control Act. While dismissing the application for leave to defend filed on behalf of the petitioner, nothing was stated as to why leave was being refused to defend the petition for claim made by the respondent on the grounds contained in proviso (e) to Section 14(1) of the Act.

(9) The Rent Controller will have to determine whether leave should be granted or should be refused to defend the petition on the aforesaid ground. The case is, therefore, remanded to the Rent Controller for determining that question and for further proceedings in accordance with law. The revision petition is accordingly accepted to that extent- There will be no order as to costs.

(10) Parties are directed to appear before the Rent Controller on November 18, 1976.