

Nathi Devi Vs. Smt. Radha Devi Gupta

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Court : Delhi

Decided On : Sep-15-1998

Reported in : 75(1998)DLT832; 1998(47)DRJ229

Judge : C.M. Nayar, J.

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

Appeal No. : C.R. No. 70/98 & C.M. No. 298/98

Appellant : Nathi Devi

Respondent : Smt. Radha Devi Gupta

Advocate for Def. : Mr. M.L. Gupta Adv.

Advocate for Pet/Ap. : Mr. S.D. Singh Adv

Judgement :

ORDER

C.M. Nayar, J.

1. The present petition is directed against the judgment dated 12th November, 1997 passed by Shri J.R. Aryan, Additional Rent Controller, Delhi by which the eviction petition of the respondent landlady was allowed under the provisions of Sections 14-D of the [Delhi Rent Control Act, 1958](#) (hereinafter referred to as the

Act).

2. The learned Controller held that the respondent became the landlady of the property by virtue of Sale Deed dated 8th March, 1982 and as such entitled to maintain the petition for eviction. The findings recorded with regard to the objection of the petitioner that the respondent was not the landlady were based on the judgments as cited in paragraphs 6 and 7 and it was held that the respondent was the owner of the suit property for the last 15 years and she was competent to file a bona fide petition and even petition as a classified landlady and widow. Paragraphs 6 and 7 of the judgment reads as follows :

'6. The next plea raised is that petitioner cannot invoke 14-D of the D.R.C. Act as premise was neither let out by her nor by her husband. It is true that petitioner herself pleads that she become owner of this property by sale deed dated 8.3.82 whereas the respondent is in occupation of the suit premises as a tenant since long may be for the last 35 years as pleaded in the leave. The expression 'premise let out by her or by her husband' appearing in Section 14-D of the D.R.C. Act has been subject matter of interpretation in several judgment of our own High Court. The first case we may refer to is by Justice Mrs. Santosh Duggal in case Mrs. Sarla Luthra v. Cadre Tools (P) Ltd. 1993 RLR 22, providing interpretation to above referred words in Section 14-D. It is held that 'the objection of adding these words, as highlighted in the case of Kanta Goel's case was to exclude the misuse or abuse of provisions of law, by resort of benami transactions and not preclude successors-in-interest of the original landlord'. The interpretation sought to be given by tenants counsel to consider the words in their literal sense was held that it would be nothing short of doing violence to the legislative intent and rendering the provision illusory and nugatory.

7. Another judgment we may refer to is by Justice Arun Kumar in a case Smt. Gurdeep Kaur v. Kartar Singh Khurana and another reported as 1995 4 AD (Delhi) 49. It has been held in this judgment that by now it has come to be a settled law that a classified landlord like widow need not be a person who herself had let out the premises to the tenant but includes premises let out by her successor in interest. Another judgment we may refer to is by Justice S.C. Jain in a case

Narinder Singh v. Raj Kumari 1992 RLR 14 where it has been held that a person who inducts a tenant is a landlord but an owner is also a landlord simultaneously and suit for eviction can be filled by the owner. Now applying the above referred law to the facts of the present case, the petitioner claims to be owner of suit property. In support of that plea she has placed photo copy of the registered sale deed by which she become owner of suit property in 1982 the document being part of her pleadings in the petition as well as in the counter affidavit can be safely referred to as against respondents plea of bare denial that petitioner was not the owner of suit property. Now when the petitioner is the owner of suit property for the last 15 years then she is competent to file a bona fide petition and even petition as a classified landlord-widow. Respondent's plea that there exists not relationship of landlord and tenant or that she was not inducted by the petitioner does not hold any ground raising triable issue.'

3. The ground of bona fide requirement was next considered and it was held that the accommodation in possession of the respondent in House No. 8331, New Anaj Mandi, Filmistan, New Delhi comprised of only one room. The respondent admittedly has three married daughters and on that basis the plea of genuine need of the respondent was accepted.

4. The learned counsel for the petitioner has vehemently contended that the respondent is not the landlady of the premises and, therefore, an eviction petition was not maintainable. This argument is misconceived as it is submitted by the respondent that she became the owner of the property by sale deed dated 8th March, 1982 and the expression 'premises let out by her or by her husband' appearing in Section 14-D of the Act will include the category of person such as the present respondent. The respondent is further held to be the owner of the suit property for the last about 15 years and competent to file the petition under the provisions of Section 14-D. The next plea which has been raised is that the law is settled that the respondent landlady has to establish her bona fide for an eviction order to be passed under Section 14-D of the Act before any such relief can be granted to her. Reference has been made to the judgment of the Supreme Court reported as M/s. Rahabhar Productions Pvt. Ltd. Vs . Rajendra K. Tandon : [1998]2SCR470 . This judgment has referred to the law on the subject and it may

be relevant to reproduce paragraphs 28, 29 and 30 which read as follows:

'28. In *Surjit Singh Kalra Vs . Union of India* : [1991]1SCR364 , a three-Judge Bench of this Court laid down as under :

'20. The tenant of course is entitled to raise all relevant contentions as against the claim of the classified landlords. The fact that there is no reference to the word bona fide requirement in Sections 14-B to 14-D does not absolve the landlord from proving that his requirement is bona fide or the tenant from showing that it is not bona fide. In fact every claim for eviction against a tenant must be a bona fide one. There is also enough indication in support of this construction from the title of Section 25-B which states 'special procedure for the disposal of applications for eviction on the ground of bona fide requirement'.

29. This decision, therefore, concedes to the tenant his right to defend the proceedings initiated under Section 14-C by showing that the requirement of the landlord was not bona fide.

30. In the above case, an earlier decision in *Busching Schmitz Private Limited Vs . P.T. Menghani* , : [1977]3SCR312 , which dealt with the scope of Section 14-A of the Act was considered and the view expressed therein was reiterated by observing as under :

'The social setting demanding summary proceeding, the nature of the subject matter and, above all, the legislative diction which has been deliberately designed, differ in the two provisions. The Controller's power to give leave to contest the application filed under Section 14(1)(e) or Section 14-A is cribbed by the condition that the 'affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified' in the respective sections. Needless to state, therefore, if an application is filed under Section 14-B or 14-C or 14-D, the tenant's right to contest the application is narrowed down and is restricted to the parameters of the respective sections. He cannot widen the scope of his defense by relying upon Section 14(1)(e). We find nothing contrary to our view in *Precision Steel & Engineering Works v. Prem Deva Niranjana Deva Tayal*. Sub-section (5) of Section

25 is self-contained and Order 37 Rule 3 CPC has not part to play there. We, therefore, reiterate the views expressed in *Busching Schmitz Private Limited case*.'

5. The nature of defense as has been held by the Court establishes that the tenant cannot widen the scope of his defense by relying upon Section 14(1)(e) of the Act. The purpose of the legislation as incorporated in Section 14-D is next clarified and stated in paragraph 323 of the judgment which makes the following reading:

'32. In another case, namely, *E.M.C. Steel Ltd., Calcutta Vs . Union of India & Another* : [1991]1SCR381 , while considering the provisions of Section 14-D under which a widow has a right to recover immediate possession of the premises in occupation of a tenant, it was laid down as under :

'Section 14-D makes no distinction between the landladies who become widows before and after letting out of the premises. It merely says that where the landlady is a widow and the premises are let out by her or by her husband, are required by her for her own residence, she may apply to the Controller for recovering the immediate possession of such premises. The language of the section in that respect is very clear. The premises might have been let out by her as a widow or they might have been let out by her husband or even by herself before she had become widow. The legislature wanted to give a special privilege to the landlady who is a widow notwithstanding whether the premises were let out before or after she became widow. Such conferment of special benefit on a widow-landlady is permissible even under the provisions of Article 15(3) of the Constitution which is an express exception to the provisions of sub-clauses (1) and (2) of that article. It states that nothing in the said article shall prevent the State from making any special provision for women and children. A widow is undoubtedly a vulnerable person in our society and requires special protection. We further see no merit in that contention that if the benefit given by Section 14-D is allowed to be availed of by widows, they may make a business of it. There is no warrant for such apprehension. For, in the first instance, the right to recover possession under Section 14-D can be availed of by the widow only once. That is a sufficient guarantee against the abuse of the privilege granted by the section. Secondly, she

has to prove her bona fide need for the occupation of the premises in question for her own residence like any other landlord. Thirdly, the provisions of Section 19 of the Act come into play in her case also, when the order for possession on the ground of bona fide requirement for occupation as residence is made in her favour.'

6. The law is, therefore, well settled that the only conditions which are required to be proved are that : (a) the landlady is a widow; (b) the premises are required by her for her own residence. This was so held in another judgment reported as *V. Rajaswari v. Bombay Tyres Intl. Ltd.* . In this case the Supreme Court referred to the provisions of Section 14-D and granted relief to the landlady even though it was held that her plea of bona fide was not substantiated under Section 14(1)(e) of the Act.

7. In the present case the respondent is held to be the landlady on the ground that she had purchased the premises in the year 1982 by sale deed dated 8th March, 1982. The petitioner raised plea that there is not such proof that the purchase was effected on that date. This argument is of no consequence as the Rent Controller on appreciation of evidence on record has clearly held otherwise. The petitioner tenant further made a faint attempt before the learned Additional Rent Controller that she had become owner by adverse possession and this plea raised triable issues. The learned counsel for the petitioner in this Court has very fairly not argued this question and stated that this plea could not have been substantiated. The next question is with regard to the accommodation which is in possession of the respondent. It has been held that the respondent is not possessed of reasonable accommodation and in fact only one room is in her possession. She admittedly had got three married daughters and her need cannot be termed anything except genuine and bona fide. The standard of proof required for application of the provisions of Section 14-D cannot be stated to be as rigorous as may be required to establish the ingredients of bona fide requirement as contained in Section 14(1)(e). The bona fide requirement is to be proved as established on prima facie basis and the onus in this regard has been clearly discharged in the facts of the present case.

8. For the aforesaid reasons the present petition is without merit and is dismissed accordingly. The petitioner is, however, granted three months' time from today to vacate the tenanted premises.

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