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Atro Devi Vs. Dittu Ram

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Court : Delhi

Decided On : Oct-06-1983

Reported in : 1984(6)DRJ186

Judge : A.B. Rohtagi, J.

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

Appeal No. : Civil Revision Appeal No. 245 of 1981

Appellant : Atro Devi

Respondent : Dittu Ram

Advocate for Pet/Ap. : H.N. Chaudhary,; M.L. Bhargav and; K.M. Sharma, Advs

Judgement :

A.B. Rohatgi, J.

(1) This is a revision against the order of the Rent Controller dated 24-1-1981. The landlady sued the tenant for eviction on the ground that one room in property No. 867 Mehrauli was let to the tenant on a monthly rent of Rs. 10.00 for residential purpose and that she required the same for occupation for herself and members of her family and that she had no reasonably suitable residential accommodation.

(2) The tenant contested the petition mainly on one ground. His defense was that this room was a part and parcel of a single tenancy consisting of one shop of 2 rooms. It is not in dispute between the parties that the tenant is carrying on a druggist shop in the two rooms constituting the shop from the very inception of the tenancy in 1958. This room appears to have been taken by the tenant sometimes later on. It is the landlady's own case that it was being used by the servants of the tenant. On the evidence adduced by the parties the Rent Controller came to the conclusion that the two rooms of the shop and one room in dispute constituted one single tenancy and the purpose of letting was a commercial purpose. In this view of the matter she dismissed the eviction petition.

(3) The evidence on the record shows that the Landlady was issuing a consolidated receipt for the shop as well as this room. The plan of the property also shows that the shop as well as the room interconnected and form one single unit. The shop opens on the main road. The room opens at the back on the gali side. There is no intervening wall between the shop and the room. The structural character of the premises established that they constitute a single tenancy.

(4) The landlady served a notice of eviction on the tenant dated 10-6-1969. In this notice the premises were referred to as one single unit. She filed a petition for eviction earlier against the tenant. In that petition she claimed eviction of the tenant from the entire premises including the shop. It was proved before the Controller that the tenant had a separate house for his residence and that he was not living in this room. On the basis of the material before her the Controller came to the conclusion that the shop and the room were being used for a non-residential purpose and were let by the landlady for a commercial purpose. She came to the conclusion on the basis of the rent receipts, the notice served by the landlady, the previous eviction petition filed by her and the plan of the premises, that the rooms in question form part of the tenanted premises which were let to the tenant for a commercial purpose. On the view that the Landlady had failed to establish that the premises were let by her for a residential purpose the Rent Controller non-suited her.

(5) Mr. Chaudhary has taken me through the relevant evidence. He has laid a good deal of stress on the rent note which was executed by the tenant in the year 1958. The rent note was not all owed to be put in evidence because it was not duly stamped. Even if the rent note is read in evidence after impounding it does not advance the case of the landlady because the parties are agreed that the two roomed shop was let by the landlady to the tenant in 1958 on a monthly rent of Rs. 25.00 per month, which later on was increased to Rs. 35/. During this long period from 1958 to 1976 when the petition was brought a consolidated receipt of rent was issued. The long course of conduct of the landlady clearly shows that she always treated these three rooms as forming part of the one tenancy. The rent was being increased from Rs. 25.00 to Rs. 30.00 anp ultimately to Rs. 35.00 per month. The eviction petition filed earlier and the notice issued by her in 1969 lead uniformly to one conclusion that the premises were let for a commercial purpose. In my opinion there is no infirmity in the conclusion arrived at by the Controller on the material placed before her. This question is essentially a question of fact. There is no reason to interfere with this conclusion in revision.

(6) For these reasons the petition is dismissed. The parties are left to bear their own costs.

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