

Sudha Rani and anr. Vs. Post Master General and ors.

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Court : Delhi

Decided On : Aug-23-1999

Reported in : 1999VAD(Delhi)554; 81(1999)DLT367; 1999(51)DRJ91; 1999RLR498

Judge : Vijender Jain, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 14 (1); [Code of Civil Procedure \(CPC\), 1908](#)

Appeal No. : Civil Misc. (Main) No. 55 of 1999

Appellant : Sudha Rani and anr.

Respondent : Post Master General and ors.

Advocate for Def. : Mr. Sanjay Poddar and ; Mr. Madhusudan Sharma Shashtri, Adv.

Advocate for Pet/Ap. : Mr. Ishwar Sahai, Senior Advocate and; Mr. A.S. Mathur, Adv

Judgement :

ORDER

Vijender Jain, J.

1. Aggrieved by the order passed by the Rent Control Tribunal, petitioners have filed this petition under Article 227 of the Constitution of India. Mr. Ishwar Sahai, learned senior counsel for the petitioner has contended that demised premises were let out on 26.9.1983 by the previous landlady/owner of the property in question to the Post Master General, who executed the lease on behalf of the President of India.

2. A petition was filed by the petitioners-Sudha Rani and Madhu Bansal on the basis of a Will. It is admitted case of the petitioners that the tenant-Post Master General attorney to the petitioners. The eviction petition was filed on the ground as mentioned under Section 14 of the Delhi Rent Control Act i.e. sub-letting, assigning or parting with the tenanted premises in favor of respondent no.4 in the eviction petition Smt. Sita Devi. Addl. Rent Controller returned the finding that it was one Sri Pal Jain, who was the Sub Post Master in charge of the Post Office at the relevant time who unlawfully inducted Smt. Sita Devi in the disputed premises. From the evidence on record and by virtue of lease deed, which is Ex. PW 1/2 as well as taking into consideration the evidence brought by Sita Devi and the pleadings holding that the premises has been sub-let unauthorisedly to Smt. Sita Devi an eviction order was passed against the respondents.

3. At the outset Mr. Sahai has contended that when the appeal was filed before the Rent Control Tribunal by Smt. Sita Devi, respondents 1 to 3 in the eviction petition i.e. Post Master General, Senior Superintending Post Offices Delhi, East Division and Secretary to the Ministry of Communication, Dak & Tar Bhawan, Parliament Street, New Delhi were not imp leaded as respondents. Mr. Sahai has contended that aforesaid three parties were necessary parties to adjudicate the dispute as it was held by the Addl. Rent Controller that Sita Devi was unauthorisedly inducted by the aforesaid parties and non-imp leading of these necessary parties by the appellant Sita Devi before the Rent Control Tribunal, would make the appeal not maintain-able. In support of his submission, learned counsel for the petitioner has cited Ch. Surat Singh (Dead) & Ors. Vs . Manohar Lal & Ors, : AIR 1971 SC240 .

4. The next contention of the learned counsel for the petitioner was that after amendment of Delhi Rent Control Act in 1988, it is not all appeals from the orders of the Addl. Rent Controller would be appealable but the appeal arising only on a question of law ought to have been entertained by the Rent Control Tribunal. thereforee, Mr. Sahai has contended that the re-appreciation of evidence on the facts of the case was not warranted in law.

5. On the other hand, Mr. Shashtri, leaned counsel for the respondent No. 4 has contended that the site plan which was filed by the petitioner was vague. He has further contended that as a matter of fact Slum Areas (Improvement & Clearance) Act, 1956 was applicable to the premises in question and, thereforee, permission for filing an application for eviction under Section 19 of the Act was a pre-requisite. It has been further contended by Mr. Shashtri that in the previous correspondence from 26.3.1992 till 8.9.1993 when admittedly it was in the knowledge of the petitioner that Sita Devi was in occupation of the premises in question no such averment was made in the notices sent by the petitioner to the Post Master General. Lastly it was contended by Mr. Shashtri that even in the testimony of PW 1, he himself has stated that Sita Devi was not living unauthorisedly.

6. I have given my careful consideration to the arguments advanced by the counsel for both the parties. This petition could have been allowed on the point of the appeal being not maintainable before the Rent Control Tribunal. The Rent Control Tribunal fell in error by entertaining the appeal when necessary parties were not made parties before the Rent Control Tribunal. In view of the finding of the Addl. Rent Controller that the premises were illegally sub-let to Sita Devi by the Post Master General, it was necessary that Post Master General ought to have been made a party in the appeal. However, as I have heard the appeal on merit also, I would like to hold that in view of the shifting stands taken by Sita Devi before the Addl. Rent Controller the impugned order of Rent Control Tribunal cannot stand. Addl. Rent Controller has recorded in paragraph 6, which is as under:

'Her case in her pleadings is that she was inducted in the premises six years back. Her deposition as RW 4 are altogether contrary to her case, as pleaded by her,

inasmuch as in her deposition she has deposed that she is residing in the premises in dispute for the last ten years.'

7. If Sita Devi was residing in the premises in question for the last ten years or six years as per her two versions, then that story of paying Rs.30,000/- in 1995 was rightly rejected by the Addl. Rent Controller. In Ex. PW 1/16, the Addl. Rent Controller has recorded that in paragraph 4, that Sita Devi has alleged that Laxman Anand who replaced the earlier Post Master Sri Pal Jain demanded security of Rs. 30,000/- from her which she gave to him. She took a somersault and took a different stand altogether. The witness produced by her (RW 1/2), who in his deposition stated that security amount was paid to Anand Prakash Gupta, husband of Sudha Rani, petitioner before me. In view of such contrary stands taken by Sita Devi, Addl. Rent Controller has rightly passed the order for eviction under Section 14 of the Act. To interfere in appeal on the basis of such contradictory evidence while on the other hand impeccable testimony of the petitioner the setting aside of the finding of the Addl. Rent Controller by the Rent Control Tribunal was totally perverse. Before parting with the judgment, I would also like to observe that the stand of the respondent-Sita Devi does not inspire any confidence in view of the fact that on the complaint of the petitioner that it was one Sri Pal Jain, Sub Post Master who was posted at the relevant time, had unlawfully inducted Sita Devi in the premise in question, the postal authorities instituted some proceedings under Eviction of Unauthorised Occupants of Public Premises Act. However, those proceedings have no bearing to the proceedings before me.

8. Counsel for respondents Nos.1 to 3-Postal authorities contends that he is also aggrieved by the order of eviction passed by the Addl. Rent Controller against the postal authorities. He submitted that against the order of eviction passed by the Addl. Rent Controller an appeal has been preferred before the Rent Control Tribunal. The same is pending disposal. Nothing said earlier will be an expression of opinion on merit of the case of the petitioner qua the Post Master General in the appeal.

9. In view of the aforesaid discussion, I set aside the order of the Rent Control Tribunal and restore the order passed by Addl. Rent Controller.

10. Petition is allowed.

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