

Amar Nath Vaish Vs. Mewa Devi

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Court : Delhi

Decided On : Oct-04-1985

Reported in : 1986(10)DRJ17

Judge : Sunanda Bhandare, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 14(1) and 25

Appeal No. : Civil Revision Appeal No. 129 of 1984

Appellant : Amar Nath Vaish

Respondent : Mewa Devi

Advocate for Pet/Ap. : Arun Kumar and ; B.J. Nayyar, Advs

Judgement :

Sunanda Bhandare, J.

(1) This revision petition is directed against the judgment dated 7.11.1983 of the Additional Rent Controller, Delhi whereby the learned Additional Rent Controller accepted the bona fide necessity of the respondent landlady and ordered eviction of the petitioner under Section 14(1)(e) of the Delhi Rent Control Act. The facts of the case, as set out in brief, are as follows:-

(2) The petitioner had taken on rent first floor premises of House No. 29/5, Shakti Nagar, Delhi consisting of three rooms, close verandah, kitchen, bath, latrine from the respondent landlady. The respondent landlady filed an eviction petition under Section 14(1)(e) of the Delhi Rent Control Act before the Additional Rent Controller for eviction of the petitioner on the ground that the said premises were required by her for her bona fide personal use. In the petition, the respondent contended that her family consisted of herself, her two sons, two daughters-in-law, one grand son, three married daughters and a servant and that one son Along with his wife and child and one married daughter lived with the respondent and were dependent on her for residence and her other married son and her married daughter visited her frequently and, therefore, the accommodation in her possession was not sufficient to meet her requirement. She further pleaded that she was a patient of Rheumatoid Arthr IT is with C.A.D. Calcaneal Spur and it was difficult for her to climb the second floor where she was pr1esently residing and was, therefore, in need of the first floor premises which were in occupation of the petitioner.

(3) The petitioner filed leave application to contest the eviction petition which was allowed and since the ownership of the landlady and purpose of letting was not contested, the only dispute that was contested before the learned Rent Controller was the bona fide need of the landlady. The learned Rent Controller considered all the three points namely; (a) who are the dependent members of the landlady; (b) what was the extent of accommodation in actual possession of the landlady; and (c) whether the same was sufficient or not and held that the premises in occupation of the petitioner were bona fide needed by the respondent for her personal use. He further held that one married son and one married daughter were dependent on the respondent for accommodation and that the accommodation presently in her occupation was not sufficient to meet the requirement of all these persons. The learned Rent Controller further held that the ground floor premises were commercial premises and were, therefore, not fit for the landlady for residential purpos. After considering the evidence, he has also held that the landlady, who was suffering from Rheumatoid Arthr IT is needed the first floor premises bona fide.

(4) The petitioner challenged these findings of the learned Rent Controller mainly on the ground that the Rent Controller erred in coming to the conclusion that the eldest daughter of the landlady, who was a married daughter, was a member of the family. The learned counsel also tried to assail the judgment of the learned Rent Controller by showing certain discrepancies in the evidence produced by the landlady in support of her contention that due to her illness her need was bona fide, that ground floor accommodation was available to the respondent which she had given on rent and that her sons and daughters are not dependent on her for accommodation. He has further urged that the extent of accommodation available with the respondent was sufficient to meet her requirement.

(5) I have heard arguments on behalf of the petitioner and the respondent at length and I have also been shown the evidence of both the sides. It appears that the respondent is an old lady suffering from Rheumatoid Arthr IT is and needs the premises on the first floor bona fide for her personal use and needs of her family. There is sufficient evidence to prove this and I do not think it warrants interference by this Court while exercising revisional jurisdiction under Section 25(8) of the Delhi Rent Control Act. There is also no substance in the contention of the petitioner that the ground floor has been falling vacant and the same is being re-let by the respondent on higher rent because admittedly the ground floor premises are commercial in nature and not fit for residential purposes. Moreover the entrance is only from the back service lane and the three rooms in front are used as shops. There is also sufficient evidence to show the need of the family members of the respondent. One of the sons of the respondent is a judicial officer at Sonapat but his wife is a teacher in Delhi and this son visits Delhi often because his wife and son reside with the respondent. One daughter of the respondent visits the respondent off and on when her husband is posted at non-family station and another daughter leaves her children in the morning with the respondent when she goes to school and the children stay with the respondent during the day.

(6) It is well-settled that the High Court while exercising revisional jurisdiction will not interfere with the plain findings of fact merely because on the same evidence it is likely that this Court may come to a different conclusion. Moreover, the Rent Controller has not committed any error of law which has in any way resulted in

miscarriage of justice.

(7) The petition is, therefore, dismissed. Since the time given by the Rent Controller to vacate the premises has now expired the petitioner is given four months time to vacate the premises. In the circumstances of the case, however there will be no order as to costs.

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