

Dharma and ors. Vs. Roop Ram

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Court : Delhi

Decided On : Sep-23-1985

Reported in : 28(1985)DLT35; 1985(9)DRJ273

Judge : G.C. Jain, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 25B(8)

Appeal No. : Civil Revision Appeal No. 762 of 1983

Appellant : Dharma and ors.

Respondent : Roop Ram

Advocate for Pet/Ap. : Y.P. Ahuja and; S.S. Wadhwa, Advs

Judgement :

G.C. Jain, J.

(1) This petition by the tenants is directed against the order dated May 20, 1983 made by the Additional Rent Controller, directing their eviction from the premises in dispute.

(2) The dispute is in respect of a room in House No. 4777, Gali No. 46, Hardhian Singh Road, Karol Bagh, New Delhi. This room was let out to Tara Chand (predecessor-in-interest of the present petitioners) long back on a monthly rent of

Rs. 251-. The respondent landlord sought an eviction of the petitioners from the said room under clause (e) of the proviso to sub-Section (1) of Section 14 of the Delhi Rent Control act (for short the Act).

(3) The petitioners admitted the relationship of landlord and tenant between the parties. It was also admitted that the respondent was the owner of the property in dispute. The other requirement, namely that the landlord had no other reasonably though disputed in the written statement was not disputed before me at the time of arguments.

(4) Learned counsel for the petitioners, however vehemently assailed the finding of the learned Additional Rent Controller regarding the letting purpose. It was contended that the room had been let out for commercial purpose and was being used as such since the inception of the tenancy and the finding of the learned Addl. Controller was erroneous,

(5) During the pendency of the appeal the petitioner moved two applications (C. M. 2784/83 and C. M. 3560/83) under Rule 27 of Order 41 Code of Civil Procedure for permission to produce additional evidence. The additional evidence consisted of the survey report made by the officers of the Municipal Corporation in 1972 showing that this room was in possession of Kanwal Band and various receipts purported to have been issued by the landlord in which the room in question has been described as a shop.

(6) To prove that the premises had been let out for residential purpose the landlord had produced only oral, evidence consisting of his own statement and the statement of one Premi. Both of them had stated that the room had been let out for residential purpose and was being used as such.

(7) In rebuttal Smt. Dharma, one of the petitioners and two witnesses had stated that the room had been let out for commercial purpose and was being used as such, namely for carrying on the business of the musical band, since the inception of the tenancy. It was admitted by the landlord that there was no water or electric connection in the premises in dispute. The tenants had not been given the facility of latrine or bath room. It was also admitted that the premises were situated on the

main road. There was a garage near the room in dispute. In front of the room there was a shop of gas lights and a ration shop. He, however, also stated that he himself was living in one of the rooms in this building without any of these facilities.

(8) On appreciation of 'the evidence as it stands, additional evidence was required for enabling the . court to pronounce judgment Satisfactory to the mind of the court. Several receipts purported to have been- is-used by She landlord have been filed by the tenants. It' it was proved that these receipts wars issued by the landlord Sen.-it-may clinch the issue. Interest of justice requires that this additional evidence was allowed.

(9) It may be added here that Tara Chand, the original tenant, had been mardered. The petitioners were illiterate persons and could not lay their hands to these important documents. This is, also a- substantial cause for allowing additional evidence.

(10) The petitioners no doubt had moved an application under Section 13(2) Code of Civil Procedure which had been allowed by the learned Additional Controller. But they had not traced these documents within that time. Keeping in view all the facts and circumstances of the case I allow the additional evidence as prayed.

(11) In conclusion, I accept the petition, set aside the impugned order and instead remit the case back to the learned Additional Controller for deciding it afresh after allowing the petitioners to produce additional evidence namely these documents which have been filed Along with the two applications in this court. They will be entitled to prove these documents. The respondents would also be entitled to produce evidence in rebuttal.

(12) Parties are directed to appear before the learned Additional Controller on October 14, 1985. The case is very old. Learned Additional Controller is directed to expedite the disposal of the case and dispose it of as early of possible.