

**Brij Singhvi Vs. Rani Devi**

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**Court :** Delhi

**Decided On :** Mar-16-1982

**Reported in :** 21(1982)DLT418

**Judge :** Yogeshwar Dayal, J.

**Acts :** Delhi Rent Control Act - Sections 25B

**Appeal No. :** C.R. No. 10 of 1981

**Appellant :** Brij Singhvi

**Respondent :** Rani Devi

**Advocate for Def. :** R.K. Mukhija and ; Alakh Kumar, Advs.

**Advocate for Pet/Ap. :** Y.K. Jain, Adv

**Disposition :** Revision allowed

**Judgement :**

**Yogeshwar Dayal, J.**

1. This revision petition has been filed under the proviso to Sub-section (8) of Section 25-B of the Delhi Rent Control Act 1958 (hereinafter referred to as 'the Act') against the order September 15, 1980 passed by the IIIrd Additional Rent Controller, Delhi dismissing the application filed by the petitioner for leave to

appear and contest the eviction application filed by the respondent-landlady against the petitioner.

2. Smt. Rani Devi wife of Late Sh. S.R. Vohra filed an ejectment application on the ground of her bonafide personal requirement as contemplated by Clause (e) to the proviso to Sub-section (1) of Section 14 of the Act.

3. In the ejectment application the respondent-landlady averred in paragraph 18 (a) as under :--

'The petitioner is the owner of the premises in question and premises in question were let out to the respondent for residential purposes and the same are now 'bona fide required by the petitioner for use and occupation as residence for herself and for residence of other family members depended upon her and for whose benefit the premises in question were constructed. The petitioner's family consists of three grown up sons and one daughter and petitioner's mother is also living with the petitioner. The petitioner's eldest son Sh. R.K. Vohra is married and has two children and the other two sons are of marriageable age. The husband of the petitioner's daughter has also been posted in Leh by defense Ministry and in that event her daughter has also to stay with her. The petitioner at present is living in Laxmi Bai Nagar in an accommodation allotted to her second son Sh. Pawan Kumar Vohra, whose marriage is to be solemnized very shortly.

The present accommodation in which the petitioner is living consists of two small rooms, kitchen, one latrine, one bath which is too inadequate and meager keeping in view her dire needs. The said accommodation will hardly meet the needs of petitioner's son who is to be married in the near future. The petitioner's sons have now grown up in age and the petitioner has no other suitable residential accommodation except the suit premises. The premises in question are bonafide required by the petitioner for use and occupation as residence for herself and other family members.'

4. The petitioner on being served with summons as prescribed in IIIrd Schedule filed an application for leave to contest the eviction application. In the application for leave to contest the ejectment application, the tenant inter-alia contended that

the landlady with the ejectment application has not filed any document in respect of the ownership of the premises. He also pleaded that the petitioner therein was neither the owner nor the landlord of the premises. It was alleged that the true facts are that the premises in suit were let out to the tenant by one Miss Leela Vohra. Miss Leela Vohra, after sometime requested and directed the tenant to pay the rent to Smt. Rani Devi and the tenant without prejudice started paying the rent to the respondent (Smt. Rani Devi). Smt. Leela Vohra is the landlady of the premises in question.

5. Another plea taken in the leave application was that the premises were let out by Miss Leela Vohra for residence-cum-office purposes. The premises have been used for the said purposes from the inception of the tenancy. The tenant also denied that the mother of the landlady is living with her. He also submitted that one of the son of the landlady is working outside Delhi. The fact that the landlady's sons are of marriageable age is also denied. Another plea was also taken but it is not necessary to refer the same at this stage.

6. In the reply to this application, the landlady stated that she is the owner of the premises. The property in question originally stood in the name of Smt. Bhagwanti Vohra, mother-in law, of the landlady who by virtue of a Will dated 1-1-1970 bequeathed the ground floor portion to Sh. S.R. Vohra, deceased husband of the landlady and first floor portion in favor of Smt. Leela Kumari, sister-in-law of the landlady. It was also submitted that the husband of the landlady, Sh. S.R. Vohra expired on 24th June, 1971 and after his demise she became the owner of the premises in question. It was also pleaded that the tenant is fully aware of these facts and the rent was also being paid by him to the landlady for over the years. It was pleaded that the tenant is estopped from disputing the ownership of the landlady.

7. Along with the reply, the landlady also placed on records relevant documents for reference of the Court. It was pleaded that the assertions of the tenant are false and mala fide and the applicant is not entitled to leave to defend the ejectment application.

8. Regarding the purpose of letting, it was stated by the landlady that the premises were let out only for residential purposes and were used as such since the inception of the tenancy. It was also stated that at the time of letting the premises, the tenant was the employee of M/s. Jai Shree Chemicals Limited and his services have recently been terminated. The plea as to the purpose of letting, according to the landlady, is false and incorrect. The landlady again reiterated the position that her eldest son is married and has two children and the two other sons aged about 26 and 24½ years are of marriageable age. The marriage of one of the sons has to be solemnised in a very near future but the marriage is being kept in abeyance because of shortage of accommodation.

9. It will be noticed that one of the pleas of the tenant is that the purpose of letting was both residential-cum-commercial. There is no written agreement or rent note or any receipt specifying the purpose of letting. Of course the plea of the landlady was there that when the tenant took the premises, he was an employee of M/s. Jai Shree Chemicals Limited. However, these are facts and questions which cannot be answered one way or the other on the state of records as it is and, therefore, it raises a question which, if proved, would disentitle the landlady from claiming eviction. There can be no doubt that if the Will placed on record is there then Smt. Rani Devi would certainly be a co-owner.

10. One of the other disputed fact again is whether Smt. Rani Devi alone is the landlord or her children are also the co-owners and whether they would also be co-landlords.

11. Mr. Mukhija, learned counsel for the respondent-landlady, submitted that apart from denying the ownership the tenant has not pleaded ownership of anybody else. It is not within the competence of this Court to criticise the drafting of the leave application of the present case and of the non filing of the relevant documents along with the ejectment application.

12. At the stage when the application for ejectment was filed even the source of ownership has not been disclosed by the respondent-landlady. The fact of letting out the premises by Miss Leela Vohra was also not disclosed. Circumstances in which Smt. Rani Devi became owner was also not disclosed. It was for the first

time in reply to leave application, the relevant documents showing the ownership as well as right to receive rent has been disclosed. These pleas do raise questions which require determination.

13. I would accordingly accept the revision petition and set aside the impugned order but grant leave to the petitioner to contest the eviction application on the following three points only :

1. Whether the premises in dispute were let out to the tenant for residential purposes only ?
2. Whether Smt. Rani Devi is a co-owner and landlady of the premises in dispute ?
3. Whether the petition filed by her alone is maintainable

14. Parties are directed to appear before the trial court on 31st March 1982 on which date the tenant-petitioner will file written statement and thereforee the Additional Rent Controller will decide the petition with utmost expedition and, if possible, within four months from today. No order as to costs of the present proceedings.

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