

Madan Lal Vs. Indra Devi

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Court : Delhi

Decided On : May-05-1987

Reported in : 32(1987)DLT289

Judge : N.N. Goswamy, J.

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

Appeal No. : Second Appeal No. 328 of 1978

Appellant : Madan Lal

Respondent : indra Devi

Advocate for Pet/Ap. : R.D. Mahant, Adv

Judgement :

N.N. Goswamy, J.

(1) This second appeal by the tenant is directed against the eviction order passed by the Rent Control Tribunal on September 11, 1978.

(2) The respondent-landlady filed a petition for eviction on the grounds covered by clauses (e) and (h) of provision to sub-section (1) of section 14 of the Delhi Rent Control Act. As regards clause (e) is concerned, the finding recorded was against the landlady. The learned Rent Controller dismissed the petition on both the

grounds holding that the appellant had acquired alternate residential premises but the petition having been filed by one of the owners was incompetent. In appeal, the Tribunal reversed the findings recorded by the Rent Controller and held that the respondent was the landlady as the appellant had attorney to her and was regularly paying rents to her. The rent receipts had been issued by her. This finding was based on evidence both oral and documentary. Admittedly she was one of the co-owners after the death of her husband and the other co-owners were her children. She was realizing rent and issuing receipts. This fact, in fact, has not been disputed and is also apparent from the various rent receipts placed on record. For seeking eviction under clause (h), it is not necessary that the petition should be filed by the owner and it can be filed by the landlord. The finding of fact recorded being that the respondent was the landlady, the petition is obviously competent.

(3) As regards the ingredients of clause (h) it stands proved that the appellant has acquired alternate residential premises and in fact this finding was not challenged before the Tribunal. The Tribunal all the same has recorded finding on the basis of eviction petition having been filed by the appellant regarding portion of the premises which he had acquired. In that petition the appellant himself had mentioned that the premises were let for residential purpose. It was not disputed that the appellant was keeping at least one room in the said premises and the remaining rooms had been let to other tenants.

(4) The only other ground on which this appeal seems to have been admitted was regarding the service of notice of termination of tenancy. The question of proper service of notice has become academic in view of the settled law that no such notice is required.

(5) For the reasons recorded above, I do not find any merit in this appeal and the same is hereby dismissed. Since there is no appearance for the respondent the parties are left to bear their own costs.