

Daulat Ram Vs. Budha Ram

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Court : Delhi

Decided On : May-06-1987

Reported in : 32(1987)DLT247

Judge : N.N. Goswamy, J.

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

Appeal No. : Criminal Revision Appeal No. 371 of 1983

Appellant : Daulat Ram

Respondent : Budha Ram

Advocate for Pet/Ap. : C.L. Itorora and; S.P. Pandey, Advs

Judgement :

N.N. Goswamy, J.

(1) This revision petition under section 25-B(8) of the Delhi Rent Control Act by the landlord is directed against the order dated 28-1-1983 passed by the learned Additional Rent Controller, Delhi whereby his eviction petition was dismissed.

(2) The respondent Budha Ram is a tenant of a portion of house No. 5017, near Khanna Talkies, Pahar Ganj, Delhi. The petitioner filed a petition under 14(l)(e) lead with section 25-B of the Act, for eviction of the said tenant. It was alleged that

the premises were let out for residential purpose and were being used by the respondent as such. It was further alleged that the petitioner Was the owner-landlord of the premises and the premises were required for bonafide residential use of the petitioner and for members of the family dependent uponhim. It was also stated that the petitioner had no other suitable residential accommodation with him. and the premises were required bona fide by him for his residence.

(3) The petition was contested by the respondent. It was pleaded that the petitioner was not the exclusive owner of the house and as such had no right to institute petition. It was further pleaded that the petitioner had enough accommodation in his possession in the house he was residing and he bad also two rooms available in the house in question and as such the needs of the petitioner were not bona fide. In evidence, the petitioner deposed that the members of the family of the petitioner were the petitioner, his wife and four children of the married daughter of the petitioner. According to the petitioner, the married daughter was living with her husband but four minor children were living with the petitioner. The story of the minor children living with the petitioner was obviously disbelieved on the basis of the ration card and other evidence. The finding has not even been challenged in this revision petition. The learned Addl.Rent Controller also found that there was nothing to prove that the petitioner was the owner of the premises in dispute. He also negatived the case of the petitioner regarding the bona fide requirements on the ground that the petitioner was living in a rented house and there was no threat of eviction from that house and in any case, the space was available in the house in question also.

(4) As regards the findings regarding the ownership, the same cannot besustained, for the simple reason, that the learned Additional Rent Controller has completely misread the decree Ex. P.2. The decree specifically describes the premises in dispute to be under the ownership of the petitioner. The learnedAddl. Rent Controller has observed that the decree cannot be relied upon since the petitioner was not the party to these proceedings. The observation is againincorrect, for the simple reason, that it was the petitioner who was the plaintiff in that suit. In any case, it was admitted by the respondent that the petitionerwas a co-owner of house No. 5017 and on that basis also the petition was maintainable

since by now it is a settled view that a co-owner can file petition under section 14(1)(e) of the Act.

(5) As regards the bona fide requirements of the petitioner, the case of the petitioner is that he is residing in a rented house where the accommodation is only one room with him. There is no reliable evidence to support this statement. According to the respondent the petitioner has two rooms in that house. the petitioner should have either filed a site plan or produced some independent witness to show that he was in occupation of only one room. Further the petitioner has admitted that he is in possession of one room, and two stores in the disputed premises. I have looked into the site plan of the disputed premises filed by the petitioner. The petitioner has described one main room as the room and two small rooms as the stores. The size of the store has not been specifically mentioned. From the plan it appears that the room described as store is not so small that it cannot be used as a room when and if required. It is really required only when and if the daughter visits her parents. Otherwise the petitioner and his wife have one room available to them and for the last several years they are living in one room. It is not the case of the petitioner that his status has improved and he wants more accommodation for that reason.

(6) For the reasons recorded above, I do not find any merit in this petition and accordingly dismiss the same. No order as to costs.