

Kesho Ram Vs. Ramesh Kumar

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Court : Delhi

Decided On : Aug-09-1990

Reported in : 42(1990)DLT430; 1990(19)DRJ244

Judge : Sunanda Bhandare, J.

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

Appeal No. : Civil Revision Appeal No. 942 of 1987

Appellant : Kesho Ram

Respondent : Ramesh Kumar

Advocate for Pet/Ap. : G.N. Aggarwal and; Girish Aggarwal, Advs

Judgement :

Sunanda Bhandare, J.

(1) The Revision Petition under Section 25-B(8) of the Delhi Rent Control Act is directed against the judgment of the Additional Rent Controller dated 28th July, 1987 whereby the petition filed by the petitioner-landlord under Section 14(the) read with Section 25-B of the Delhi Rent Control Act was dismissed. The father of the respondent Shri Chiranji Lal, was inducted as a tenant by the petitioner in the year 1960 at a monthly rent of Rs. 52.50 on the ground floor of the premises bearing No. 3195, Gali Sani Ram, Mohalla Dassn. Delhi. After the death of the

father in the year 1981, the respondent herein became the tenant. The petitioner filed a petition under Section 14(i)(e) read with Section 25-B of the Delhi Rent Control Act for eviction of the respondent on 9th August 1983 on the ground that the premises are required by him and members of his family for the bona fide need for residence. It was alleged in the petition that the petitioner who is an old man of 60 years and his wife aged 57 years, reside with their family members in the same house on the first and the second floors. The accommodation presently in possession of the petitioner consists of four rooms on the first floor and two rooms on the second floor i.e. the barsati floor, whereas the family of the petitioner consists of himself, his wife, one married son, one unmarried son, the daughter-in-law, two grand children and one daughter of his married daughter who permanently resides with the petitioner. The petitioner also submitted before the Trial Court that the petitioner has two daughters who are married and five married sisters. These daughters and sisters visit the petitioner occasionally and a room is required for their use as and when they visit the petitioner. The petitioner also claimed the premises on the ground that one of the employees of the petitioner is residing with him and he has also engaged a servant who also requires some place. The respondent-tenant not only disputed the need of the petitioner but also disputed the ownership of the petitioner and the letting purpose. The trial court partly rejected the claim of the tenant and held that the petitioner is the landlord/owner of the premises in dispute and the premises were let out to the respondent only for residential purpose. However, on the question of bona fide need the Additional Rent Controller came to the conclusion that the accommodation presently in possession of the petitioner is sufficient for his needs and he does not require the premises in occupation of the respondent-tenant, for his bona fide personal use or for the use of his family members dependent upon him.

(2) Notice of this revision petition was duly served on the respondent. The respondent put in an appearance through a counsel in this Court. However, the respondent has not chosen to file a reply to the revision. Along with the revision petition, the petitioner also moved an application being C.M. 3490/87 under Order 41 Rule 27 seeking liberty to bring certain subsequent events on record. A notice of this application was also served on the respondent but there is no reply filed to

this application by the respondent. Another application, being C.M. 1404/88 was also filed under Order 41 Rule 27 Civil Procedure Code during the pendency of this revision petition by the petitioner for bringing certain further events on record. Notice of this application was also served on the respondent but the respondent has not chosen to file a reply even to this application. In the two applications seeking to bring on record the subsequent events the petitioner has submitted that after the judgment of the Additional Rent Controller,- first son of the petitioner has suffered a heart attack and there has also been additions to his family inasmuch as his second son has got married, some more grand children are born and now the family consists of title petitioner himself, his wife, two married sons, two daughters-in-law, 5 grand children from the sons and One daughter of the married daughter, apart from the need of the employee and the servant.

(3) Learned counsel for the petitioner submitted that the accommodation in his occupation at the moment does not consist of four rooms on the first floor, but consists of only two rooms with small attached rooms without independent entrance. These small rooms cannot be considered as independent rooms. I do not think that I can go into this question because the plan which is annexed to this revision petition was not before the Trial Court. Even assuming that the accommodation which is stated to be in possession of the petitioner at the moment is as stated by the respondent i.e., four rooms on the first floor and two rooms on the second floor and the need of the married daughters and sisters is not to be counted even then, in my view, the accommodation in his possession is not sufficient for the needs of the petitioner One room is required by the petitioner for himself and for his wife, two rooms for his two married sons and their respective wives, two rooms turn the five grand children, i.e., one rooms for the children of the first son and another room for the children of the second son, one room for the grand-daughter i.e. daughter's daughter who is admittedly residing with the petitioner. Thus all the six rooms arc utilised by the family itself. Now, admittedly, one room is being used by the petitioner for his business as a traveling agent. Thus, the petitioner in any event requires one more room.

(4) On perusal of the judgment of the Additional Rent Controller, I find that the Rent Controller has not considered the need of the grand children at all.

Undoubtedly so many grand children cannot be accommodated in one room with their parents. In my view, therefore, the petitioner's need cannot be said to be unreasonable or malafide. Further more, the subsequent events placed by the landlord on record also indicate that the need of the petitioner has further increased. One of the sons of the petitioner has suffered a heart attack. Moreover the petitioner and his wife who were 60 years and 57 years old at the time of the filing of the petition have become older still and the petitioner has become 68 years old and his wife is 65 years old. They are also suffering from various ailments. Thus, it is not unreasonable to seek accommodation on the ground floor. In my view, refusal of the petitioner to exchange accommodation does not make his need malafide. The Rent Controller thus was not right in disregarding the need for the ground floor on the ground (if ill health of the petitioner and his wife because he rejected the offer of the tenant to exchange accommodation in his possession with premises in possession of the petitioner. In my view, the petitioner has amply proved that he needs the premises in dispute for his bonafide personal use and the use of his family members.

(5) In the circumstances, the petition is allowed and the Judgment of the Additional Rent Controller dated 28th July, 1987 is set aside and a decree for eviction is passed in favor of the petitioner and against the respondent. However, the respondent is given six months' time to vacate the premises. No costs.

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