

**Inder Singh Vs. Shakuntla Devi**

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**SooperKanoon Citation :** [sooperkanoon.com/700011](http://sooperkanoon.com/700011)

**Court :** Delhi

**Decided On :** Apr-01-1994

**Reported in :** 1994(29)DRJ386

**Judge :** V.B. Bansal, J.

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

**Appeal No. :** Civil Revision Appeal No. 463 of 1991

**Appellant :** Inder Singh

**Respondent :** Shakuntla Devi

**Advocate for Pet/Ap. :** S.D. Ansari and; R.B. Gupta, Advs

**Judgement :**

**V.B. Bansal, J.**

(1) Inder Singh has filed this revision petition against the judgment dated 5.12.1990 of Shri Rakesh Kapur, Additional Rent Controller, Delhi, vide which the learned Additional Rent Controller came to the conclusion that Smt. Shakuntia, the landlady, was in bona fide requirement of the premises in question and, thus, passed the decree for eviction under Section . 14(l)(e) of the Delhi Rent Control Act (hereinafter referred to as the 'Act') in her favor and against the petitioner tenant. There was a further direction that this order of eviction would be effective

after a lapse of six months from the date of this order.

(2) SMT.SHAKUNTLA Devi(hereinafter referred to as the landlady') filed a petition under Section 14(l)(e) read with Section 25-B of the Act against Inder singh for his eviction from the portions shown red in the plan attached with the petition in premises bearing No-2193, Kucha Akil Khan, Bazar Sita Ram, Delhi.

(3) Briefly stated, the averments made in the petition were that Inder Singh was in possession of two rooms, kolki and latrine on the ground floor with terrace on payment of Rs.12/=per month as rent, exclusive of other charges. It was also pleaded that respondent was an old tenant in the said property which was purchased by the petitioner on 4.4.79 vide Sale Deed and, thus, Inder Singh became her tenant by operation of law. It was also claimed that the premises in dispute were let out to the respondent for residential purpose and are required by the landlady for her own use as also residence of members of her family dependent on her and that she has no other reasonably suitable residential accommodation. Further averments made in the petition have been that her family consisted of herself, her husband, four sons and a married daughter. According to her, the eldest son, Subhash, was married having wife and two children and both the children are school going. She has also claimed that her second.son, Ashok Kumar, was married having wife and two children out of whom one was school going and that the third son, Vijay Kumar, was also married having wife and one child; while the fourth son was of marriageable age and in this way there were 14 members of her family. She has also pleaded that she Along with her husband and youngest son, Ajay Kumar, and one servant was living in one room temporarily partitioned by wood, temporary kolki of the store on the first floor of the property bearing No.2030, Santosh Kutir, Bazar Sita Ram, Delhi, and they cook their food in apportion of the Dalhan in front of that room, which accommodation was under the tenancy of her husband. It has also been pleaded that her other sons are in occupation of two small rooms and one other room temporarily partitioned in between on the ground floor and one room, kitchen, bath, latrine on the first floor of the property bearing No-2193, Kucha Akil Khan, Bazar Sita Ram, Delhi, It has also been pleaded that there was no drawing room or study room or any accommodation to accommodate the visitors and also the married daughter and

son-in-law who have been coming to her Along with their child, It was also claimed that the respondent was in arrears of rent.

(4) This petition was filed in the year 1984.

(5) Inder Singh, tenant, filed a written statement contesting the petition for eviction and pleaded that the petition on the ground of bonafide personal necessity was not maintainable since Smt. Shakuntla Devi was neither the owner nor the landlady of the premises in dispute. It was also pleaded that the tenant had already filed a suit for declaration and cancellation of the Sale Deed alleged to have been executed by Ravinder Nath and Shailender Nath in favor of the petitioner, which suit is pending and till such time the matter was decided by the Civil Court the Act was not applicable and, so, the petition for eviction was not competent. It has also been pleaded that the property was, in fact, owned by one Nawab Medu Khan who migrated to Pakistan in the year 1947 when the property was in a dilapidated condition, which was occupied by the respondent in the year 1952-53. It was also claimed that the respondent had started making payment of the ground rent underneath the superstructure to one Charan Dass while the superstructure was raised by him. It is also pleaded that the eviction petition is malafide and the landlady does not require the premises. It has also been pleaded that material facts have been suppressed by the petitioner, who has given wrong description of her family members and their respective ages. Further pavements made in the petition are that the petitioner was in possession of two rooms, bathroom and latrine on the ground floor along with open area in property bearing No. 2193, Kucha Akil Khan, Bazar Sita Ram, Delhi and she had three rooms, one bathroom, one kitchen, one latrine, verandah and a room measuring 14' x 10' in the landlord are not gainfully employed or have meagre salary with large family to support, they cannot be said to be fully independent or self-supporting and their requirement has to be taken to be the requirement of the landlord. They have to be treated as a member of the same family. The requirement of a son even though earning and married has to be taken into consideration while determining the requirement of the landlord. In this case, the petition for eviction of the tenant was filed by the landlady in the year 1984, which is still pending. There is no doubt that the respondent landlady and her husband and one son are residing in a tenanted

premises and she has expressed her desire to have the premises vacated from the tenant so that she and her sons who are wholly dependent upon her for residence are comfortable in living since the accommodation available with them is not sufficient. According to the landlady they have four rooms, two kitchens, two latrines and three bathrooms in premises No.2193, Kuthca Akil Khan, Bazar Sita Ram, Delhi and one room partitioned into kitchen, gallery and one small room and bathroom in premises No.2030, Santosh Kutir, Bazar Sita Ram, Delhi. It is, thus, clear that only four bathrooms are available in the disputed premises and the landlady has four married sons and she needs a room for herself also. They do not have any drawing room or a room for guests, which could be used by the married daughter who visits them Along with her husband. It is not possible for the Courts to substitute their own assessment of requirement as against the assessment of requirement of the landlady. It has not been the case of the petitioner that there was at anytime a demand by the landlady for the increase of rent or that the purpose of the landlady was only to let out the premises so as to get more income. It is not permissible to force a landlady to continue residing in the tenanted premises if she has a desire to live with her family members in the premises owned by her. Learned counsel for the petitioner has not been able to show any illegality committed by the learned trial court in coming to the conclusion that the respondent was in bonafide requirement of the premises for her residence and for the residence of her married sons, who are dependent on her for the purpose of residence.

(6) In view of my aforesaid discussion, I am clearly of the view that the learned Additional Rent Controller has committed no irregularity or illegality in allowing the petition and passing the order of eviction against the petitioner from the premises in dispute.

(7) As a result the revision petition is dismissed with costs. The petitioner is, however, given two months time to vacate the premises.