

**Shakuntala Devi Vs. Ashok Kumar Bajaj**

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**Court :** Delhi

**Decided On :** Feb-02-1996

**Reported in :** 1996IAD(Delhi)717; 61(1996)DLT741; 1996RLR122

**Judge :** C.M. Nayar, J.

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

**Appeal No. :** Civil Revision Appeal No. 842 of 1991

**Appellant :** Shakuntala Devi

**Respondent :** Ashok Kumar Bajaj

**Advocate for Pet/Ap. :** R.J. Issar and; Jasbir Singh, Advs

**Judgement :**

**C.M. Nayar, J.**

(1) The present petition is directed against the judgment dated September. 5, 1991 of Shri K.S. Khurana, Additional Rent Controller, Delhi. The learned Judge rejected the petition for eviction filed by the petitioner under Section 14D of the Delhi Rent Control Act (hereinafter referred to as 'the Act').

(2) The eviction petition was moved on the ground that the petitioner was the widow and the premises in question were let out to the respondent for residential

purposes on August 1, 1981 and were now required by her. The husband of the petitioner died on January 26, 1984 and the petition was filed in the year 1989. The family of the petitioner consists of herself, her son Gurdeep Singh and his wife Smt. Anita and two minor children, a daughter and a son who are now aged about 11 and 41/2 years respectively. Apart from the above members of the family, the petitioner has five married daughters as well as grand children and they visit her but do not stay over night due to paucity of accommodation. The premises which are in occupation of the petitioner and her family members consist of two living rooms, one passage room which is held as a room by the Rent Controller, kitchen, bath room etc. on the ground floor. The petitioner has further stated that her son has been in possession of one living room and a kitchen on the ground floor, and the bathroom and W.C are being shared by her and family. The averment is also made that more accommodation is required in view of the increase in the size of the family and also because the petitioner wants to set up her own kitchen as she does not get along well with her daughter-in-law. It is also stated that she requires one more room for Pooja and some space for the servant.

(3) The respondent denied the averments and the contentions raised in the eviction petition and reiterated that the petitioner has already been provided with sufficient accommodation, her daughters rarely visit her and even if they visit her they come for a short time and do not stay for a night. He further denied that there was any deterioration of relationship between the petitioner and her daughter-in-law.

(4) The parties led their respective evidence and the same was examined by the Rent Controller who held as follows :

(i) that from the site plan it was crystal clear that the petitioner has two rooms as well as the third room which can be used easily by the petitioner and her family members for their residence. (ii) that one room was quite sufficient for the soil of the petitioner and his wife and their small daughter and the other room was sufficient for the petitioner herself whereas the third room marked was still available to her for other purposes, such as, using for Pooja if she was performing any religious ceremony or for stay of her daughters and their families whenever

they visited her. (c) the petitioner was residing in August, 1987 in a tenanted premises in Chandni Chowk along with 8 members in one room and miani with the use of common toilet and bath room. So, when she can reside there in one room along with her eight members of family, it meant that she was accustomed to live in a small accommodation and her social status did not require a separate room for worshipping and separate room for her servant etc. In the above background, the Rent Controller came to the conclusion that the accommodation available with the petitioner was quite sufficient for her as well as for members of her family. The eviction petition, as a consequence, was rejected.

(5) The learned Counsel for the petitioner has vehemently contended that the findings of the Rent Controller are perverse and cannot be sustained in law as he has committed an obvious error of jurisdiction. She has argued that the provisions of Section 14D of the Delhi Rent Control Act are meant for the benefit of the widow and it has been prima facie established on record that the requirement of the petitioner is nothing but bonafide and the premises are required by her. The ingredients, as contained in the said provision of law, are clearly satisfied on the facts of the present case.

(6) Section 14D of the Act reads as follows :

'14D. Right to recover immediate possession of premises to a widow ; (1) Where the landlord is a widow and the premises let out by her, or by her husband, are required by her for her own residence, she may apply to the Controller for recovering the immediate possession of such premises. (2) Where the landlord referred to in sub-Section (1) has let out more than one premises, it shall be open to her to make an application under that Sub-section in respect of any one of the premises chosen by her.'

(7) The Supreme Court in *Surjit Singh Kalra v. Union of India and Another*, : [1991]1SCR364 has clearly drawn the distinction between the provisions of Sections 14(1)(e) and 14B to 14D of the Act and rejected the contentions of the tenant therein that the tenant's right to contest the application for eviction on the grounds specified in Section 14(1)(e) cannot be denied even as against the classified landlords falling under Sections 14B to 14D and such landlords have to

prove the facts and the tenant is entitled to contest the application by disclosing such facts, as would dis-entitle the landlord from obtaining an order of eviction on the grounds specified in Section 14(1)(e). The learned Judges held that 'the acceptance of such submissions would practically obliterate the purpose and object of classification of landlords under Sections 14B to 14D who are carved out from the general landlords. Indeed, it would render the whole exercise of creating special classes of landlords with specified rights to recover immediate possession of the premises let out by them nugatory.' The Court, however, accepted the proposition that every claim for eviction against the tenant must be a bonafide one. It was stated so in paragraph 20 which reads as follows

'THE tenant of course is entitled to raise all relevant contentions as against the claim of the classified landlords. The fact that there is no reference to the word bonafide requirement in Sections 14B to 14D does not absolve the landlord from proving that his requirement is bonafide or the tenant from showing that it is not bonafide. In fact every claim for eviction against a tenant must be a bonafide one. There is also enough indication in support of this construction from the title of Section 25B which states 'special procedure for the disposal of applications for eviction on the ground of bonafide requirement.'

(8) The judgment in Cmc Steel Limited, Calcutta v. Union of India and Another, : [1991]1SCR381 , which followed the earlier judgment, as referred to above, further explained the concept of the provisions, as contained in Sections 14B to 14D of the Act. The relevant paragraphs are 5 and 6 which read as follows :

'5.The object of the Act, as stated in its preamble, is to provide for the control of rents and evictions, and of rates of hotels and lodging houses, and for the lease of vacant premises to Government in certain areas in the Union Territory of Delhi. The original Act came into force on February 9, 1959 having received the assent of the President on December 31,1958. The working of the Act disclosed certain deficiencies, inconveniences and hardships both to the landlords and the tenants. Their associations, therefore, made representations. Various committees and commissions also recommended amendments of certain provisions of the Act. Considering the grievances of the landlords and the tenants as well as the

recommendations of the committees/ commissions, the Act was amended in 1988 with the object of (a) rationalising the law by bringing out the balance between the interests of landlords and tenants, (b) giving a boost to house building activity and maintaining the existing housing stock in a reasonable state of repairs, (c) reducing litigation between landlords and tenants and of ensuring expeditious disposal of disputes between them. By this amendment Sections 14B to 14D were added. The object of Section 14D is obvious. It is to assist a vulnerable and needy section of the society to recover possession of the premises as expeditiously as possible and without the usual trials and tribulations.

(9) We have already held in the accompanying judgment that classified landlords such as the widow landlady under Section 14D can apply for possession of the premises under the respective provisions even if the premises are not let for residence. It is not necessary to repeat the said discussion in this judgment. Section 14D makes no distinction between the landladies who become widows before and after letting out of the premises. It merely says that where the landlady is a widow and the premises are let out by her or by her husband, are required by her for her own residence, she may apply to the Controller for recovering the immediate possession of such premises. The language of the Section in that respect is very clear. The premises might have been let out by her as a widow or they might have been let out by her husband or even by herself before she had become widow. The Legislature wanted to give a special privilege to the landlady who is a widow notwithstanding whether the premises were let out before or after she became widow. Such conferment of special benefit on a widow-landlady is permissible even under the provisions of Article 15(3) of the Constitution which is an express exception to the provisions of Sub-clauses (1) and (2) of that article. It states that nothing in the said article shall prevent the State from making any special provision for women and children. A widow is undoubtedly a vulnerable person in our society and requires special protection. We further see no merit in the contention that if the benefit given by Section 14D is allowed to be availed of by widows, they may make a business of it. There is no warrant for such apprehension. For, in the first instance, the right to recover possession under Section 14D can be availed of by the widow only once. That is a sufficient guarantee against the abuse of the privilege granted by the section. Secondly, she

has to prove her bonafide need for the occupation of the premises in question for her own residence like any other landlord. Thirdly, the provisions of Section 19 of the Act come into play in her case also, when the order for possession on the ground of bonafide requirement for occupation as residence is made in her favour.'

(10) Similarly, in a later judgment as reported in *V. Rajaswari v. Bombay Tyres Intl. Ltd.*, 54 (1994) DLT 494 the Supreme Court explained the ingredients of Section 14D and in fact, allowed the petition of the landlady who had earlier moved the Rent Controller under Section 14(1)(e) without remanding the case to the Controller for trial, as it was found that the necessary ingredients of Section 14D had been fully complied with. Paragraph 4 of this judgment is reproduced as under:

'ON a careful consideration of the above arguments, we are of the view that under Section 14D, the tenant has practically no defense whatever. All that has to be proved under the said Section which has been extracted above, are ; (i) that the landlady is a widow, (ii) the premises are required by her for own residence. In this case, both these requirements are satisfied. As regards the first, we do not want to state the obvious. Regarding the second, the fact that she is living with her daughter or any other person, is no ground to say that the premises in question is not required for her residence. If this be so, we are unable to see as to how her demand for increased rent would militate against her plea. Having regard to this established fact, we think that the trial of the application under Section 14D before the Rent Controller, will only be redundant. thereforee, we direct eviction of the respondent-tenant under Section 14D.'

(11) The position of law is finally settled and it is held that there is no necessity of a regular trial to act under the provisions of Section 14D though the landlord must, prima fane, establish the requirement as bona fide.

(12) Adverting back to the facts of the present case, the Controller has merely rejected the plea of the petitioner on the grounds which cannot be sustained and are extraneous to the contentions raised in the matter. He has drawn too much support from the fact that the petitioner was earlier living in one room with her eight members of the family and she has already sufficient accommodation in the

premises on the ground floor. Since she was not used to living in style her requirement can not be accepted as bonafide. The plea for a separate Pooja room as well as for the requirement of visiting daughters was also not considered. It is admitted that the petitioner is having a married son, daughter-in-law and two children aged 11 and 4 1/2 years respectively. She also gets the natural visits of her five married daughters, four of them are presently living in Delhi. The need of married daughters for some accommodation in their parents house has not been considered as remote and distant and it is natural that some part of accommodation has to be kept for them and their families when they visit their parents.

(13) The learned Counsel for the respondent on the other hand, has sought reliance from the Single Bench judgment of this Court, as reported in 1983 DLT 208. He has referred to paragraph 23 which reads as follows:

'IN order to appreciate the genuineness of the landlady's requirements, it would be correct to collate all the connected considerations, such as, her financial position and status, social customs and conventions as also the number of members of her family. In the present case, the landlady was earning about Rs. 200.00 per month as a teacher in a primary school. She had been living in these two rooms for a long time i.e. even when the other daughters were unmarried. Her income is meagre. She is not used to living in style. She was managing in these two rooms even when her family consisted of many more persons; they live-in family has now been reduced to two. It would, therefore, appear to me that she does not have a bonafide need for further accommodation.'

(14) The Counsel has argued, as has been held by the Additional Rent Controller, that the petitioner was not used to live in style as earlier to the filing of the present eviction petition she was content to reside in one room with eight members of the family. This submission cannot be accepted as it is the natural desire of every person to improve his or her position and lead a comfortable life and the landlady in such a situation is the best judge of her requirement and it is not open either for the Court or for the respondent/tenant to dictate the way she should live. The finding of the Rent Controller on this score is totally perverse and cannot be

upheld on the face of the admitted facts of the present case For the aforesaid reasons, this petition is allowed and an order of eviction is passed in respect of the demised premises under Section 14D of the Act. There will be no order as to costs.

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