SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Krishan Lal Vs. Smt. Devki

Krishan Lal Vs. Smt. Devki

SooperKanoon Citation : sooperkanoon.com/702823

Court : Delhi

Decided On : Jan-20-2000

Reported in : 2000IVAD(Delhi)868; 85(2000)DLT326; 2000(56)DRJ210

Judge : Madan B. Lokur, J.

Acts : Delhi Rent Control Act, 1958 - Sections 14(1), 14-D and 25-B(8)

Appeal No. : Civil Revision Petition No. 1045 of 1998

Appellant : Krishan Lal

Respondent : Smt. Devki

Advocate for Def. : Mr. M.P. Sharma, Adv.

Advocate for Pet/Ap. : Mr. Sanjeev Kalra, Adv

Judgement :
ORDER

1. Admit.

2. The Petitioner filed a Civil Revision Petition under the provisions of Section 25-B of the Delhi Rent Control Act. 1958 (hereinafter referred to as the Act) directed against the order dated 22nd September, 1998 passed by the learned Additional Rent Controller in Suit No. E-976 of 1991.

3. The Respondent/landlady, along with her two sons, had earlier filed a petition for evicting the Petitioner/tenant from the same premises, as in this case, bearing No.XVII/2178/2, Khampur, New Delhi (hereinafter referred to as suit premises). This eviction petition (being Suit No. E-205 of 1991) was filed claiming the benefit of proviso (e) to Section 14(1) of the Act, namely, that the Petitioners therein required the premises bona fide for their residence. This Petition was dismissed by an order dated 4th July, 1991.

4. While dismissing the earlier eviction petition, the learned Additional Rent Controller, found that the present Respondent was the landlady of the suit premises which was owned by her two sons. It was also held that the landlady was in possession of reasonably suitable accommodation bearing No. 2401/2, Shadipur, New Delhi. It is necessary to point out that the landlady had submitted through her counsel, a 'short notes of arguments' dated 11th April, 1991 reiterating that she was living in premises bearing No. 2401/2, Shadipur, New Delhi. This is of some significance as will be clear a little later.

5. Just about 21 days after the dismissal of the eviction Petition filed under proviso (e) to Section 14(1) of the Act, the landlady filed another petition but this time it was under the provisions of Section 14-D of the Act which reads as under:

'14-D. Right to recover immediate possession of premises to accrue 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.'

6. By the impugned order dated 22nd September, 1998 this petition was allowed by the learned Additional Rent Controller by the impugned order. This led to the filing of a revision petition by the tenant.

7. The Petition was listed for admission on 14th January, 2000. However, since no complicated facts or complex issues of law were raised, the petition was heard, with consent of learned counsel for the parties, for final disposal and judgment reserved.

8. Learned counsel for the tenant submitted that within a matter of 21 days of the dismissal of the earlier eviction petition, the facts could not have altered so dramatically as to permit the landlady to set up a totally new case in her second eviction petition. In this regard learned counsel for the the Petitioner submitted that in her earlier eviction petition, she had stated that she was a resident of 2401/2, Shadipur, New Delhi and this fact was reiterated by her in her 'Short notes of arguments' filed on 11th April, 1991. On the other hand, in the second eviction petition, the landlady had stated that she was a resident of WZ-J-34, Arya Samaj Road, Uttam Nagar, New Delhi and that her landlady in these premises was compelling her to vacate the same. Learned counsel also pointed out that in her cross-examination, the landlady had admitted that she had shifted to the Uttam Nagar premises about a year ago, that is, sometime in 1990 which was contrary to the 'Short notes of arguments'.

9. According to learned counsel, the landlady was prone to making self serving statements and ought not to have been believed. In this regard, learned counsel also submitted that the landlady has two sons and it had been her case that one of them could not get married due to paucity of accommodation but it transpired during the proceedings in the second eviction petition that both her sons were married to German nationals and were living in Germany. Learned counsel submitted, additionally, that it was unlikely that any of her children would return to India for permanent residence here and it was not true that the landlady required the premises for her residence.

10. Learned counsel for the landlady naturally supported the impugned order.

11. Having gone through the records of the case with the assistance of learned counsel for the parties, I am of the view that the scope of interference in proceedings under Section 14-D of the Act is extremely Limited. The Supreme Court has held in the case of V.Rajaswari Vs . Bombay Tyres International Ltd.

that in proceedings under Section 14-D of the Act, 'the tenant has practically no defense whatsoever'. Primarily, the landlady is required to prove that she is a widow and that she requires the premises for her residence.

12. In the present case, there is no dispute about the fact that the landlady is a widow. The only dispute that could, thereforee, survive is whether the landlady required the premises for her residence.

13. For determining this, it appears to me that the earlier proceedings filed by the landlady under proviso (e) to Section 14(1) of the Act are relevant, but not conclusive. In Rajaswari, the Supreme court accepted the landlady's petition under Section 14-D of the Act even though she had not succeeded in her petition under proviso (e) to Section 14(1) of the Act. The fact situation in this case is more or less the same: the landlady has not succeeded in her petition filed under proviso (e) to Section 14(1) of the Act but has succeeded (at least before the learned Additional Rent Controller) in her petition filed under Section 14-D of the Act.

14. In view of Rajaswari, there is no doubt that the nature of proof in proceedings under proviso (e) to section 14(1) of the Act is quite different from the nature of proof in proceedings under Section 14-D of the Act. The obligation cast upon the landlady to show that she requires of the suit premises for her own residence has been met in the present case, as held by the learned Additional Rent Controller. Nothing to the contrary has been shown except what was held in the earlier eviction petition, namely, that the landlady was in possession of premises bearing No. 2401/2, Shadipur, New Delhi which was adequate for her needs.

15. Notwithstanding this, in the second eviction petition, the learned Additional Rent Controller has found as a matter of fact that the landlady was staying at the premises bearing No. WZ-J-34, Arya Samaj Road, Uttam Nagar. New Delhi. He also found that neither the premises bearing No.2401- 2, Shadipur, New Delhi nor the premises bearing No. WZ-J-34, Arya Samaj Road, Uttam Nagar, New Delhi were owned by the landlady but that the Uttam Nagar premises were rented premises. In view of these findings, (which are reasonable), it is difficult for me to come to any other conclusion than that the landlady was entitled to shift to the premises owned by her and which happen to be in the possession of her tenant.

16. What has become of the premises bearing No. 2401/2, Shadipur, New Delhi is not known, but the fact remains that the landlady was not residing in Shadipur (at the relevant time) as found by the learned Additional Rent Controller. It is not for me to decide why the 'short notes of arguments' represented a different picture nor is it possible for me to conclude on this basis that the landlady was residing at Shadipur and not Uttam Nagar.

17. Under these circumstances, I am of the view that the learned Additional Rent Controller was justified in passing an order of eviction against the tenant. Accordingly, the present petition is dismissed.

18. There will, however, be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com