

Ram Chander Goyal Vs. Mohd. Umar

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Court : Delhi

Decided On : Feb-02-1997

Reported in : 1998IIAD(Delhi)8; 70(1997)DLT492

Judge : Manmohan Sarin, J.

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

Appeal No. : Second Appeal No. 6 of 1998

Appellant : Ram Chander Goyal

Respondent : Mohd. Umar

Advocate for Pet/Ap. : S.N. Gupta, Adv

Judgement :

Manmohan Sarin, J.

(1) The present appeal is directed against the order of the Rent Control Tribunal dated 7.10.1997, in Rca No. 44/88, by which the Tribunal, while allowing the Appellant's appeal against the dismissal of the eviction petition on the ground under Section 14(1)(a) of the Delhi Rent Control Act (hereinafter referred to as the Act), upheld the dismissal of the eviction petition on the grounds under Section 14(l)(c)(e) of the Delhi. Rent Control Act. The learned Rent Control Tribunal accepted the appeal of the appellant with regard to dismissal of the petition under

Section 14(l)(a) of the Act and has allowed the same giving benefit to the respondent under Section 14(2) of the Act.

(2) Learned Counsel for the appellant has urged before me that learned Rent Control Tribunal should have also allowed the eviction petition of the appellant on the ground under Section 14(l)(c)(e) of the Act.

(3) The learned Rent Control Tribunal found overwhelming evidence to uphold the finding of the Rent Controller that no case of bona fide need under Section 14(1)(e) of the Act was made out. As regards the ground under Section 14(l)(c) of the Act the learned Rent Control Tribunal held that the appellant has not fulfilled the requirements of Section 14(5) of the Act. Section 14(5) of the Act is as under:

'(5)No application for the recovery of possession of any premises shall lie under Sub-section (1) on the ground specified in Clause (e) of the proviso thereto, unless the landlord has given to the tenant a notice in the prescribed manner requiring him to stop the misuse of the premises and the tenant has refused or failed to comply with such requirement within one month of the date of service of the notice; and no order of eviction against the tenant shall be made in such a case, unless the Controller is satisfied that the misuse of the premises is of such a nature that it is a public nuisance or that it causes damage to the premises or is otherwise detrimental to the interests of the landlord.'

This sub section provides that an application for the recovery of possession of any premises shall not lie under Clause (e) of Section 14(1) unless the landlord has given to the tenant a notice in the prescribed manner requiring him to stop the misuse of the premises and the tenant has refused or failed to comply with such requirement within one month of the date of service of the notice. The sub-section also provides that no order for eviction against the tenant shall be made in such a case unless the Controller is satisfied that the misuse of the premises is of such a nature that it is a public nuisance or that it causes damage to the premises or is otherwise detrimental to the interests of the landlord.

(4) 'THE Rent Control Tribunal in the instant case on appreciation of evidence reversed the finding of the Rent Controller and held that the letting purpose was

residential. The next question that falls for consideration is whether the requirements of Section 14(5) of the Act has been satisfied?

(5) Learned Counsel for the appellant argued that the appellant had issued the notice wherein the factum of misuse was mentioned and the respondent was asked to stop the same. I am afraid that this alone would not help the appellant since there is no compliance with the requirements of Sub-section (5) of Section 14 of the Act. Sub-section (5) enjoins upon the Rent Controller to pass an order of eviction on the ground of Clause '(e)' of the proviso to Section 14, when there is non-compliance with notice to stop misuser. Further an order of eviction is to be passed only when the Controller is satisfied that the misuse of the premises is of such a nature that it causes public nuisance or that it causes damage to the premises or is otherwise detrimental to the interest of the landlord.

(6) From a perusal of the petition it is seen that there is no allegation with regard to the misuse of the premises being in the nature of public nuisance or causing damage to the premises or being otherwise detrimental to the interests of the landlord. Learned Counsel for the appellant persuasively attempted to urge that the user as a factory itself was not lawful and it would amount to a public nuisance and it could be assumed that it caused damages to the premises and was itself detrimental to other residents and the interests of the landlord.

(7) I am afraid that in the absence of any averment or allegation in either the petition or the deposition of the appellant, such an argument cannot be accepted. Learned Counsel next contended that an application for leading additional evidence had been moved as far back as 2.2.1997, but the Rent Controller failed to deal with the same. There is nothing on record to show that the said application was ever pressed by the appellant.

(8) Besides, a perusal of the said application shows that the grievance of the appellant was that the misuse still continued and the unauthorized additions and alterations and structural changes in the tenanted premises were being done. The appellant had alleged in the application that the respondent had shifted from the suit premises. Even in the said application there is no averment with regard to the misuse being a cause of public nuisance or having caused damage or being

detrimental to the interests of the appellant/landlord so as to invoke Section 14(l)(c) read with Section 14(5) of the Act.

(9) I find no ground to interfere with the judgment of the learned Rent Control Tribunal. The appeal has no merit and is dismissed.

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