

Harpal Singh Vs. Leela Devi

Harpal Singh Vs. Leela Devi

SooperKanoon Citation : sooperkanoon.com/920940

Court : Delhi

Decided On : Oct-03-2011

Judge : P.K.Bhasin, J.

Acts : [Delhi Rent Control Act, 1958](#) - Section 25-B(8)

Appeal No. : RCR NO. 74/2011

Appellant : Harpal Singh

Respondent : Leela Devi

Advocate for Def. : Mr. Girish Chandra; Mr. T.K. Tiwari, Advs.

Advocate for Pet/Ap. : Mr. G.L. Goswami; Mr. Balraj, Advs.

Judgement :

1. This petition under Section 25-B (8) of the [Delhi Rent Control Act, 1958](#) has been filed against the order dated 08.12.10 passed by the learned trial court whereby eviction petition under Section 14(1)(e) of the Act filed against the petitioner - tenant by his landlady, respondent herein, in respect of one shop under his tenancy (hereinafter referred to as the tenanted shop) has been allowed and an eviction order has been passed after rejecting his application for leave to contest filed under Section 25B(4) of the Act.

2. The respondent -landlady is the owner of the property no. 1/4086, Ashok Marg, Ram Nagar Extension, Mandoli Road, Shahdara, Delhi and the petitioner is the tenant in respect of one shop on the ground floor. The respondent- landlady in her eviction petition had pleaded that her family was of twelve members comprising of herself, her husband, four sons, out of which two were married and have two kids each. The landlady further pleaded that the tenanted shop is required for her family members for opening a general store as her husband who was a government employee had retired on 31.07.2008 and had no source of income to maintain himself. It was also pleaded by the respondent landlady that her husband wanted to run a general store with the assistance of their two daughters-inlaw and the tenanted shop was required as no other space was available in the house in question for that purpose.

3. The petitioner-tenant had claimed in the leave to defend application that the respondent landlady had in her possession another shop which she had shown in the site plan filed along with the eviction petition as a store room. This was the main plea put forth by the petitioner tenant before the trial Court as also before this Court.

4. The learned Additional Rent Controller has dealt with the said plea of the petitioner tenant in the impugned order and rejected the same by making the following observations: In his application for grant of leave to defend, the respondent has alleged that there is no bonafide requirement of this shop and the averments of the petitioner are false. It has also been alleged that one shop on the ground floor of the premises no. 1/4086 is lying locked and is in the possession of the petitioner. Ld. counsel for the respondent has argued that the area shown as store in the Site Plan of the petitioner which is adjacent to the suit shop is in fact, a shop which is in the possession of the petitioner. The respondent has filed a photograph to support his assertion. This photograph, however, does not show that the portion adjacent to the tenanted shop is also a shop. In fact, it appears to be a gallery where the staircase is situated. In his Rejoinder, the petitioner has categorically explained the situation of this store and the area which according to the respondent is a shop. The case of the petitioner is that there is a small store adjacent to the tenanted shop measuring 3 x 8. For safety purpose, a rolling

shutter has been installed. There is a three feet wide gallery and there is also a three feet wide staircase. The photograph filed by the respondent, in fact, corroborates the description narrated by the petitioner. The respondent has failed to show that there is a shop adjacent to the suit shop from where the business of grocery store can be run by the family members of the petitioner. It has been argued by the petitioner that she wants to enhance the family income for maintaining her large family including the families of her two married sons. For this purpose, her husband and her two daughters-in-law want to run a grocery store from the tenanted premises. This is a bonafide requirement and there is nothing to show that an alternate suitable shop is available to the petitioner for this purpose.

5. In my view, the learned Additional Rent Controller cannot be said to have committed any material irregularity in not accepting the petitioner tenants plea that the room shown in the site plan annexed with the eviction petition was not a store room and the same could be used for opening a shop. The petitioner has not made any attack in the present revision petition on the above quoted observations of the Additional Rent Controller regarding the availability of the room described in the site plan as a store with the respondent landlady and the same being not sufficient for doing any kind of business therein. Except for taking this plea, the petitioner tenant has not challenged the bona fides of respondents decision to make the tenanted shop available to her husband and two daughters-in-law for running a general store to earn money for the entire family comprising of 12 members. If that be so, I do not find any merit in this revision petition and the same is, therefore, dismissed.

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