

Maya Devi Vs. Ashok Kumar

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Court : Delhi

Decided On : Dec-14-2012

Judge : M. L. Mehta

Appellant : Maya Devi

Respondent : Ashok Kumar

Advocate for Pet/Ap. : Mr. Arun Sukhija

Judgement :

* THE HIGH COURT OF DELHI AT NEW DELHI + R.C.REV. 584/2012 Date of Decision:

14. 12.2012 MAYA DEVI Through: Petitioner Mr. Arun Sukhija, Advocate. Versus Respondent ASHOK KUMAR Through: Nemo. CORAM: HONBLE MR. JUSTICE M.L. MEHTA M.L. MEHTA, J.

(Oral) CM 20761/2012 (Early hearing) This is an application for early hearing for the matter. Heard. In view of the submissions made therein, the application is allowed and the matter is being taken up today itself for hearing. CM stands disposed of. R.C.Rev. 584/2012 1. This revision petition under Section 25B(8) of the Delhi Rent Control Act (for short the Act) is directed against the order dated 23.12.2011 of Administrative Civil Judge-cum-Addl. Rent Controller (ARC), North East, whereby the eviction petition filed by the respondent under Section 14 (1) (e) of the Act, was allowed, as also the order dated 25.09.2012 whereby the

applications seeking review of the order of 23.12.2011 and for condonation of delay & stay of the execution order, were dismissed.

2. The petitioner is a tenant in a portion of the property bearing No. F-6/8A, Krishna Nagar, Delhi under the respondent for residential purpose. Her eviction was sought from the tenanted premises on the ground of bona fide requirement thereof by the respondent for himself and his family members dependent upon him. After the leave to defend was granted to the petitioner, the petition was put on trial. Both the parties led their respective evidence. The learned ARC vide the impugned judgment dated 23.12.2011 held the respondent to be entitled to seek eviction of the petitioner and, he consequently passed the eviction order against her. Thereafter, the respondent filed the execution of the eviction order, to which, the petitioner filed objections and she also filed an application under Section 25(9) of the Act read with Section 47 CPC along with the application for condonation of delay seeking review of the aforesaid eviction order. All these came to be dismissed vide order dated 25.09.2012. Both these orders of ARC are under challenge in the instant petition.

3. The learned counsel for the petitioner has assailed the impugned order only on the ground that the respondent has various other suitable and alternative accommodations/properties, details of which are under: (a) Flat No. 63, Plot No. 78, Meena Apartments, I.P. Extension, Patparganj; (b) Two flats at Shivam Enclave out of one property bearing No. 12-C, MIG Flats, Shivam Enclave, Jhilmil Colony; (c) Premises bearing No. 9/4779, Old Seelampur Road, Gandhi Nagar, Delhi & (d) Property bearing No. 1780, Kucha Lattu Shah, Dariba Kalan, Chandni Chowk. It was thus submitted by learned counsel for the petitioner that the respondent did not require the suit premises bonafidely.

4. The plea of the respondent, on the other hand, was that he is in possession of only one room, one kitchen, common toilet and bathroom and his family consists of himself and his wife. He also has one married son, and two married daughters, who generally visit and stay with him. It was also his case that he was a social person and well connected. As regard to the plea of the petitioner relating to other properties available with the respondent, it was his submission that the premises

being flat No. 12-C, MIG Flat, Shivam Enclave, Jhilmil Colony was the property of his younger brothers wife. He further denied that he is the owner of premises No. 9/4779, Old Seelampur, Gandhi Nagar. With regard to the flat at Meena Apartments, he submitted that this was in occupation of his son and his wife and grandsons. With regard to the premises No. 1780, Kucha Lattu Shah, his plea was that his father was owner of only three rooms in this property and the petitioner had only one-eighth undivided share in three rooms, and none of these rooms were in his possession or occupation. One of these rooms was stated to be in possession of younger brother and other two rooms not being used due to dispute of shareholders. It was submitted that only old furniture was lying therein.

5. From the evidence that was led by the respondent and which is not controverted, it was recorded as a finding of fact by the learned ARC that the present accommodation available with the respondent in F-6/8A, Krishna Nagar, Delhi comprised of only one room and that his requirement for attending visitors or for his son and daughters, could not be said to be lacking bona fide. This is admitted fact that the respondent is living with his family in the portion adjacent to the tenanted premises. The requirement that has been projected by the respondent is of the tenanted premises, which is in the same premises where he has been living with his family and thus, this would be more convenient and suitable for him than the accommodation, if any, available with him in Kucha Lattu Shah. It is settled proposition of law that the suitability of alternative accommodation has to be examined from the view point of the landlord as compared to the premises sought to be evicted.

6. In view of my above discussion, I do not see any infirmity or illegality in the impugned orders of ARC, whereby the eviction order was passed in favour for the respondent, and consequently, dismissing the review application. The petition has no merit and is hereby dismissed in limine. M.L. MEHTA, J.

DECEMBER 14 2012 akb

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