

(2012) 08 DEL CK 0215
In the Delhi High Court
Case No : CM (M) 632 of 2012

Champa Sahni

APPELLANT

Vs

Rattan Singh Huf Th. Bhupinder Singh

RESPONDENT

Date of Decision : 17-08-2012

Acts Referred:

Constitution of India, 1950 — Article 227
Delhi Rent Control Act, 1958 — Section 14(1)(a), 14(1)(a)(g), 14(1)(g), 14(1)(h),
14(2)
Evidence Act, 1872 — Section 45

Citation : (2012) 7 AD 151

Hon'ble Judges : M.L. Mehta, J

Bench : Single Bench

Advocate : Shail Sahni, Attorney of the petitioner in person, for the Appellant;
Atul Kumar, for the Respondent

Judgement

M.L. Mehta, J.—This petition under Article 227 of the Constitution is filed challenging the order dated 11.5.2012 of District Judge-cum-Addl. Rent Control Tribunal (South-West) whereby the miscellaneous civil appeals being MCA Nos. 6/12 and 8/12 of the petitioner herein were dismissed. The eviction petition u/s 14(1)(a)(g) & (h) of Delhi Rent Control Act (for short the "Act") in respect of the suit premises House No. III, 5/42, Shastri Bazar, Delhi Cantt. was filed by the respondent for eviction of the petitioner. So far as ground of eviction u/s 14(1)(a), the petitioner was granted benefit u/s 14(2) of the Act. The ground of petition u/s 14(1)(h) was dismissed, whereas it was decreed u/s 14(1)(g) of the Act vide judgment dated 01.03.2004 of the Rent Controller. It is since then that the matter has been pending for enabling the respondent to carry the construction of the premises in terms of the said judgment. The record shows that the petitioner had challenged the said judgment before the RCT which was disposed by him vide order dated 24.5.2004 by remanding the matter back to the Addl. Rent Controller. The petitioner carried the matter in appeal to this court, which resulted in dismissal on 29.07.2004. The Addl. Rent Controller again

passed the eviction order on 20.11.2004. The petitioner again preferred appeal which was disposed by the ARCT on 12.04.2005 observing as under:

the landlord shall get the building plans revalidated and shall file a certified copy thereof before the Trial Court and shall also inform of the same by a letter through his counsel to the counsel for the appellant and within six weeks on being so notified the appellant shall deliver vacant possession of the premises to the landlord or else the trial court shall get the premises vacated so as to enable the landlord to commence and complete the construction within the next six months or within the expiry of the revalidated building plans, whichever is earlier, and on the landlord so getting the possession of the premises, he shall place the tenant in occupation of a premises of an almost similar size in the rebuilt premises and the Trial Court shall be at liberty to pass such order as may be required in this regard, according to law.

2. The landlord filed execution of the eviction order wherein warrants of possession were issued on 17.12.2004. In the process, the landlord also submitted the sanction plan and sanction letter where-after the Rent Controller again issued the warrants of possession against the petitioner vide order dated 18.02.2006, reasoning as under:

Therefore, in compliance of the aforesaid directions of Ld. RCT warrants of possession in respect of the demised premises be issued on filing PF. DH to appear before Ld. ACJ on 3.3.06. However, the landlord/petitioner is directed to complete the construction of the building as per sanctioned plan within six months from the date of getting the possession of the demised premises from the tenant and after the completion of the said construction, landlord shall place the tenant in occupation of the premises of almost similar size in rebuilt premises. Accordingly, landlord is directed to place the respondent/tenant in occupation of the premises of almost similar size and of similar location on the ground floor in the rebuilt premises after the reconstruction of the premises/building within six months from obtaining the possession from the tenant and it is made clear that as per sanction plan the landlord will put back the tenant on the ground floor portion having similar location as shown in the site plan Ex.Aw1/1 in the portion ABCD on the ground floor in sanctioned plan Ex.C-1 marked by me today.

DH/petitioner to appear before Ld. ACJ on 3.3.06. To come up for report of the bailiff on 10.03.2006.

3. The petitioner again filed an appeal against this order in this court, which came to be dismissed on 14.3.2006. Ultimately, the police aid had to be secured for taking the possession of the suit premises from the petitioner by the Rent Controller vide his order of 7.4.2006. Now, the petitioner came with an application on 18.5.2007, objecting issue of warrants of possession till the landlord filed certified copies of revalidated building plans. On this, the case was adjourned sine die on 13.5.2009 till such time, the landlord was able to get the

plans revalidated. The landlord got the plans revalidated from Delhi Cantonment Board vide its letter dated 07.07.2011 and thereupon the execution petition was revived on 2.9.2011. To this also, the petitioner raised objection by filing application on 14.10.2011. The Rent Controller had to summon the record from Delhi Cantonment Board, the paramount lessor to confirm about the revalidation of the plans by it vide its letter dated 7.7.2011. The objections raised by the petitioner were dismissed by the Rent Controller and again warrants of possession were issued vide order dated 28.3.2012, which were also challenged by the petitioner vide MCA No. 8/12, which came to be dismissed by ARCT vide the impugned order.

4. The above proceedings have been noted to see the conduct of the petitioner in managing to delay the execution of the eviction order passed against her u/s 14(1)(g) of the Act. In the instant petition, the grounds of challenge of the impugned order are the same, which were taken by the petitioner before the Addl. Rent Control Tribunal in her appeals MCA Nos. 6/12 and 8/12. The order passed by the ARCT on 12.4.2005 and the eviction order passed by the Rent Controller on 18.2.2006, as reproduced above, are explicitly clear and did not leave any doubt or ambiguity as regard to the direction given to the landlord to place the petitioner in occupation of the premises of almost similar size on the ground floor in the rebuilt premises within six months of obtaining the possession from the tenant for reconstruction of the premises. The objections which have been taken by the petitioner throughout were based on flimsy grounds. After having failed to deliver the possession, the police aid had to be sought for taking the possession. At this stage, frivolous objections were taken that the revalidated building plan did not bear the stamp of the office; that the letter of dispatch did not bear the description of the property; that the sanction was in contravention of the Cantonment Building bye laws, and that revalidation of the building plan was not signed by Sanjeev Kumar, CEO. The objection was taken that the signatures of Sanjeev Kumar, CEO, Delhi Cantonment Board, appearing on the revalidated sanction plan, were not his signatures. In the process, the court had examined Ajay Gupta, an official of Delhi Cantonment Board to prove the signatures of Sanjeev Kumar. This was also objected to by the petitioner. The petitioner went to the extent of filing application u/s 45 of the Evidence Act seeking comparison of the signatures of Sanjeev Kumar. In the instant petition also, same objections have been taken running in about 40 pages. Both the courts below have rightly observed the petitioner to be intentionally and deliberately trying to delay the execution by raising fake objections and misusing the process of law.

5. Even before this court, when admittedly, the possession had been taken in execution of warrants of possession, and the landlord has demolished the tenanted premises, the petitioner not only persisted with the objections, but this time, tried to resist the construction on different grounds. It was argued by the counsel for the respondent/landlord that for carrying the construction, a temporary electricity connection was required to be taken and which, as per

rules, could be taken only after the surrender of the electricity connection by the petitioner. The petitioner outrightly declined to surrender the electricity connection and insisted for restoration of the same connection after the completion of the construction. Counsel appearing for the respondent stated that the respondent has no objection if the petitioner could get the same connection revived. The petitioner again challenged the validity of the plans and also stated that the area of rebuilt ground floor being offered to her by the landlord, was much smaller. This was entirely misconceived apprehension of the petitioner to be entertained in the instant petition. As is noted above, the orders of the courts below are very clear as regard to the relocation of the premises to the petitioner after reconstruction. Then the petitioner demanded Rs. 10,000/- per month for the period of construction and till such time, she was given the possession of the rebuilt premises on the ground floor. This was outrightly rejected by the respondent/landlord, stating that he has already suffered for about eight years at the hands of the petitioner and that, still, sufficient time would be required to enable him to start construction inasmuch electricity connection will be required to be taken and some more formalities would also be required to be done.

6. In view of my above discussion, I do not see the petition to be having any merit. However, to avoid further delay on the part of the petitioner, it is directed as under:

(i) The petitioner shall immediately surrender her existing electricity connection in the suit premises and shall take all the required steps to be taken such as NOC etc. within seven days from this order;

(ii) The petitioner shall not raise any objection regarding the construction or interfere in the process of construction, in any manner whatsoever;

(iii) The respondent, shall, within a week of surrender of connection by the petitioner, apply for electricity connection and commence the construction and complete the same within six months thereafter;

(iv) The revalidation of plan, if any, or any other act required to be done by the Cantonment Board, shall be got done by the respondent/landlord well in time;

(v) In the event of the respondent/landlord failing to complete construction within six months after commencement, as above, the respondent/landlord shall have extended period of three months for completing entire finishing and formalities etc. and then place the petitioner in possession of the rebuilt premises on the ground floor. In the event of the respondent failing, neglecting, refusing or delaying to give possession to petitioner within the extended period of nine months, the petitioner will be entitled to be compensated @ Rs. 10,000/- per month till such time, she is put in place in the rebuilt premises.

With the above directions, the petition stands disposed of.