
(1983) 08 DEL CK 0027

In the Delhi High Court

Case No : Second Appeal No. 287 of 1977

Kulwant Rai Jain

APPELLANT

Vs

Banwari Lal and Others

RESPONDENT

Date of Decision : 25-08-1983

Acts Referred:

Citation : AIR 1984 Delhi 378 : (1984) 25 DLT 11 : (1984) 6 DRJ 226 : (1984) RLR 161

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

Bench : Single Bench

Advocate : Kanwal Narain and S.K. Taneja, for the Appellant;

Judgement

M.L. Jain, J.

(1) Kulwant Rai appellant is the landlord. Ratanlal was the tenant. His son is Banwarilal. The premises" in dispute are two. shops. The tenancy commenced in July, 1955.

(2) The landlord filed an eviction application on the ground that

(1)Ratanlal sublet, assigned or otherwise parted with possession in favor of his son Banwarilal in respect of one shop",

(2)Bona fide requirement of the premises for rebuilding.

(3) The Additional Controller dismissed the application on 19-12-1973. Ratanlal then died. The landlord filed an appeal against his legal representatives including Banwarilal. The learned Tribunal dismissed the appeal on 31-8-1977. It upheld the findings that the grounds of eviction were not made out. It was also urged before it that since the tenancy rights in premises let out for non-residential purposes did not pass on to the successors of the statutory tenant after his death, eviction order be passed against the legal representatives. The appellant relied upon Jagdish Chander Chatterjee and Others Vs. Shri Kishan and Another, . The learned Tribunal rejected this contention in view of Kedarnath v.

Prem Nath 1973 RLR 701. Hence, this second appeal.

(4) It is urged by Shri Kanwal Narain that Kedarnath (supra) has ceased to apply after retrospective amendment made in the definition of a tenant. The amendment introduced the concept of limited succession in case of death of a statutory tenant if the premises were let for residential purposes and none if letting is for commercial premises. If the legal representatives have no title independent of the deceased, which they can claim even at the execution stage, they are required to surrender possession and cannot invoke the defenses provided in Section 14(1) of the Delhi Rent Control Act, 1958 which were personal to the deceased. The landlord cannot be driven to file a suit for possession and have another round of litigation. I have so held in *Gian Devi v. Jiwan Kumar*, 1980 Raj. L.R 28, and *Girdhari Lal v. Abdul Jalil* 1980 R.L.R. 91, and *Sadhir Kumar Aggarwal v. Surinder Pal Singh and others*, Sao 137/82, decided on 25-5-1983, and *Ram Saran v. Misri Lal Mauriya*, Sao 116/82, decided on 24-8-1983.

(5) I, Therefore, accept this appeal, set aside the impugned order accept the eviction application and direct that the respondents shall deliver possession of the disputed shops to the appellant within six months. No costs.