

(2016) 12 DEL CK 0098
In the Delhi High Court
Case No : CM(M) 590 of 2015

Tilak Raj Chadha

APPELLANT

Vs

Vijay Kumar Arora

RESPONDENT

Date of Decision : 06-12-2016

Acts Referred:

Delhi Rent Control Act, 1958 — Section 14(1)(e), Section 25B(4)

Citation : (2017) 236 DLT 293

Hon'ble Judges : Mr. Jayant Nath, J.

Bench : Single Bench

Advocate : Mr. Vinayak Sharma, Advocate, for the Respondent; Mr. Shiv Charan Garg, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Mr. Jayant Nath, J. - By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 22.4.2015 of the Additional Rent Controller by which an application filed by the respondent/tenant for granting leave to defend the Eviction Petition was allowed. The petitioner had filed the Eviction Petition under section 14(1)(e) read with section 25-B of the Delhi Rent Control Act for a shop in premises No. 143, Desh Bandhu Gupta Market, Karol Bagh, New Delhi.

2. A perusal of the impugned order shows that the ARC while considering the application for leave to defend filed by the respondent/tenant has allowed the same particularly on two grounds (i) that the petitioner in the Eviction Petition has sought eviction of the respondent from the said shop for bona fide requirements for himself, for his son and also for his daughter-in-law. (ii) There is no specific averment or specific purpose for which tenanted premises is required. Hence, the ARC concluded that the plea raised is vague regarding bona fide requirements as the respondent cannot be accepted to fulfil all his bona fide requirements from a single shop. Hence, the ARC concluded that a triable issue is raised.

3. Secondly, the ARC held that the petitioner has sought eviction from the tenanted premises. In the application for leave to defend the respondent has mentioned that the property No. 143 is divided into two parts and one shop has been let out to Shri Manoj Sehgal. This has been denied by the petitioner stating that this is a subsequent event which took place on 27.3.2014. He submits that the Eviction Petition was filed in 2012 whereas Shri Manoj Sehgal handed over the half portion of the shop in question on 26.12.2013. Hence, he submits that the subsequent event could not be commented upon by the petitioner.

4. In my opinion, the legal position on the basis of which the application for leave to defend was allowed is contrary to what the ARC has taken into account. This court in *Jitendra Mohan Gulati (Dr.) v. Hira Lal Singh*, 219 (2015) DLT 489 held as follows:-

"12. As regards bona fide requirement, the learned ARC noted the two contentions of Dr. Gulati that Hira Lal has at one place stated that he required the premises for himself and on the other place the same was required for the expansion of the business of his son. It was further stated that the proposed use of property for starting auto-parts or auto-workshop was not permissible and the area was restricted for use as residential as per the Master Plan of Delhi 2021. The contention of Dr. Gulati deserves to be rejected. At no point of time Hira Lal sought eviction of the tenanted premises for opening an auto-workshop. He stated that his son was selling tyres and had a wheel balancing machine and he wants to open a shop for sale of motor-parts and accessories. Hira Lal has placed on record a Trade License issued by the MCD in the name of his son. The fact that Hira Lal has mentioned two bona fide requirements i.e. to start the business for himself and the other for expansion of business of his son would not nullify his bona fide requirement. There is no requirement in the law that while filing an eviction petition under 14(1) (e) DRC Act the landlord must restrict himself to only one bona-fide requirement. The fact that Hira Lal has no experience to start the business is immaterial."

5. The above proposition was accepted by this court in RC Rev. No. 445/2016 in order dated 06.10.2016.

6. In the light of the above, it is clear that the basic grounds on which leave to defend has been allowed to the petitioner is on a wrong proposition of law. A landlord can claim bona fide need for different purposes. Once the possession of the property is received, the landlord would have the option to choose any of the necessary stated needs. Accordingly, the impugned order suffers from material irregularity. Same is quashed. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

7. The parties are relegated back to the Additional Rent Controller. The ARC may consider the application for leave to defend filed by the respondent afresh, keeping in view the said legal position. The ARC is requested to expeditiously dispose of the application keeping in view the fact that the Eviction Petition was

filed in 2012. Needful be done preferably within four months from today.