
(2002) 05 DEL CK 0120

In the Delhi High Court

Case No : C.R. No's. 1085 and 1086 of 1999

Union of India (UOI) and Another

APPELLANT

Vs

Nirmala Jain

RESPONDENT

Date of Decision : 08-05-2002

Acts Referred:

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

Citation : (2002) 05 DEL CK 0120

Hon'ble Judges : Ramesh Chand Jain, J

Bench : Single Bench

Advocate : Alpana Poddar, for the Appellant; Vikas Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Jain, J.—These civil revisions are directed against the order of The learned Additional Rent Controller, Delhi, dated 12-7-1999 thereby dismissing an application u/s 25(4) of the Delhi Rent Control Act 1948 (In short the Act) filed by the Union of India/tenant seeking leave to defend an eviction petition filed by the land lady under the provisions of Section 14 (1) (e) and Section 14D of the Act on the ground of her bonafide necessity and that she is a widow of deceased landlord Surinder Kumar Jain and required the suit premises for her residence.

2.The facts leading to the present revision petition in brief are that the respondent Smt.Nirmala Jain filed an eviction petition u/s 14D and 14(1)(e) of the Act for eviction of the respondent-Union of India from premises consisting of one hall and one room on the ground floor of house No.787-B, Chirag Delhi, which was allegedly let out to the respondent-Union of India for residential purpose at the rent of Rs.325/-p.m. vide lease deed dated 9-4-80 by her late husband Sh.Surinder Kumar Jain who died on 25-4-1984. After his death the respondent-Union of India started paying rent to the respondent land-lady who has two sons and one daughter. The elder son of respondent is married. The relations between the land lady and her elder son and his wife became strained and so in August 1997 she reached on an oral family settlement with her sons

and daughter pursuant to which the ground floor of the suit property including the tenanted premises came to the share of the land lady which she required for her own residence as the accommodation on the upper floor was not adequate for her other family members.

3. The tenant Union of India being served with the notice of the eviction petition, filed an application u/s 25-(4) of the Act for grant of leave to contest the petition on the grounds that the petitioner land lady was neither the owner nor the land lady of the suit premises; tenanted premises was let out for commercial purpose, hence the petition was not maintainable ;the petitioner has not come to the court with clean hands; in the year 1990 the petitioner had filed a suit bearing No. 679 for enforcing arbitration clause which was dismissed by the court of Sh.P.K.Bhasin, Additional District Judge. The trial court on a consideration of the matter declined to grant leave to contest the eviction petition and has passed the eviction order u/s 14D of the Act although holding that the premises were not let out for residential purposes but the petitioner-land lady being the widow of the deceased land lord required the suit premises for her residence.

4. I have heard Ms. Alpana Poddar, learned counsel representing the petitioners- Union of India and Sh. Vikas Mahajan, Advocate, representing the respondent/ land-lady and have considered their contentions. Learned counsel for the petitioner has assailed the impugned order primarily on the ground that on the face of the defense plea put forth by the UOI/tenant certain tribal issues arose in the case which could only be answered after a full dress trial of the petition and, Therefore, the learned Rent Controller has erred in declining the application for leave to defend. Learned counsel for the petitioner has also pointed out that the petition for eviction was based on false/incorrect allegations and misrepresentation inasmuch as the petitioner alleged that the suit premises were let out for residential purpose with a view to invoke the provisions of Section 14(1) (e) and 14D of the Act though the premises were admittedly let out and are being used for running a post office and the Controller has also found that the same were not let out for residential purpose and consequently the grounds as contained in Section 14 (1) (e) and 14D could not be pressed. As against this the submission of the learned counsel for the respondent is that the learned trial court was fully justified in declining the leave to contest as no tribal issue arises inasmuch as the land-lady being a widow of deceased landlord Surinder Kumar is entitled to invoke the provisions of Section 14D of the Act for seeking the premises for her own residence even though the premises have been let out for commercial purpose.

5. The object of Section 14D is to assist a vulnerable and needy section of the society to recover possession of the premises as expeditiously as possible and without unusual delay and tribulations. The learned controller though having found that the premises were let out and were used by the tenant for running a post office has still on the strength of the Supreme Court decisions in the case of Leila Walia Vs. K. Artar Kaur 1996 RLR 67, Surjit Singh Kalra Vs. Union of India

(UOI) and Another, , EMC Steel Vs. U.O.I. (1991) 2 SCC and Navneet Rai Vs. Narinder Kaur 1993 RLR 76, has held that the provisions of Section 14D are applicable to a premises even if the same was let out for commercial purposes provided the same can be used for residential purposes.

6. Learned counsel for the petitioner has urged that the controller has erred in relying and acting upon the said authorities because in the case in hand the tenanted premises are such which cannot be used for residential purpose and the finding of the controller that the premises could be used for residence is based on surmise and conjecture. I do not see any force in this contention because admittedly the building comprising the suit premises is essentially a residential building the first and second floor of which is being admittedly used for residential purpose. In a metropolitan city like Delhi where there is a general scarcity of commercial or official accommodation, it is not unusual that the several residential premises are used for commercial purposes with or without making some alterations. In the opinion of this court, having regard to the totality of facts, circumstances and material brought on record, the learned rent controller was justified in raising the inference that the suit premises could be used for residential purposes.

7. The next submission of the learned counsel for the petitioner is that the petition for eviction by invoking the provisions of Section 14 (1) (e) and 14D of the Act was not a bonafide one inasmuch as the petition was filed after several years of the death of her husband and the requirement for the suit premises as projected by the petitioner for her residence is a sham one. This contention too appears to be devoid of any force firstly because unlike Sections 14B & AC, Section 14D does not prescribe any time frame for filing THE petition. Therefore, there appearing to be no bar for a widow to file a petition even after several years of the death of her husband. On the other hand the very fact that the husband of the land-lady died in the year 1984 and THE petition was filed by her in 1998 would only show her bonafide because she has not resorted to the provisions of Section 14D immediately after it came on the statute book in the year 1988. The petitioner/land-lady has satisfactorily explained why THE petition was filed after 10 years of the Section 14D having come into force. The reason was the compelling circumstances that her relations with her elder married son and his wife having become strained and she having been forced to find accommodation for herself. It has not been seriously disputed on behalf of the petitioner that there was no settlement amongst the family members of the land lady pursuant to which the suit premises fell to her share and she needs the same for her own residence. In the opinion of this court on the face of these facts and circumstances the learned controller was justified in refusing to grant leave to the tenant/UOI. The impugned order does not suffer from any illegality, material irregularity or any infirmity which calls for any interference by this court.

8. In the result, this revision petition fails and is hereby dismissed and the order of the learned controller is upheld. Parties to bear their own costs in these

proceedings. Civil revision CR 1086/99, which it appears was inadvertently registered, also stands disposed of in terms of this order.