
(2017) 11 DEL CK 0085

In the Delhi High Court

Case No : RC.REV. No. 348 Of 2017, Civil Miscellaneous No. 26920, 42417 Of 2017

Vijay Kumar Arora

APPELLANT

Vs

Tilak Raj Chadha

RESPONDENT

Date of Decision : 30-11-2017

Acts Referred:

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

Citation : (2017) 11 DEL CK 0085

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : Brijesh Kr. Tamber, Rakesh Kumar Singh, Sunil Lalwani

Final Decision : Dismissed

Judgement

R.K.Gauba, J

1. The matter had earlier been listed for 6th December, 2017. However, on the application (CM No.42417/2017) of the respondent, it has come up

today. With the consent of learned counsel on both sides, the date of hearing is advanced and the matter is taken up for hearing.

2. The petitioner herein is admittedly a tenant in the suit premises described as shop No.143, Desh Bandhu Gupta Market, Karol Bagh, New Delhi-05

as shown in colour red in the site plan annexed to the application. A case for eviction (E-213/17/12) was instituted against him by the respondent

(landlord) on 28.05.2012 on the ground of bona fide need under Section 14(1) (e) of the Delhi Rent Control Act, 1958. Upon being served with the said

summons, in terms of the procedure envisaged under Section 25-B of Delhi Rent Control Act, 1958, he filed an application before the Additional Rent

Controller seeking leave to defend. The said application was considered by the

Additional Rent Controller by order dated 22.04.2017 such leave

having been denied, it resulting in an order of eviction being passed, the same is challenged by him through the petition at hand.

3. The ground on which the petitioner sought the leave to contest in the eviction proceedings taken out by the respondent was that he (respondent) had

available to him, alternative accommodation for the purposes of setting up his son in his independent business, reference being made in this context to

two specific premises, one in property bearing No.4/54/55, Saraswati Marg, WEA, Karol Bagh, New Delhi and the other in premises No.C-1/5, Tibia

College, Karol Bagh, New Delhi. The Rent Controller rejected the reference to both the said premises holding that they cannot be said to be available

as suitable alternative accommodation.

4. Having heard the learned counsel on both sides and having gone through the record of the Rent Controller, this court finds no error in the view

taken by the court below. The respondent in his eviction petition had come up on his own with the explanation that the property at Saraswati Marg

was under tenancy of one Gaurav Bawa since 2005. The plea of the petitioner that such premises are actually in the use and occupation of Tarun

Chadha, son of the respondent in his own rights, the documents showing such tenancy since 2005 being false and fabricated, is unfounded and

unsubstantiated by any cogent material and, thus, has been rightly rejected by the impugned order. The premises in Tibia college area are not even

owned by the respondent. It is an undisputed case that the respondent only holds permissive rights of a licensee, even such licence having been

terminated upon issuance of a notice in 1998 for its vacation.

5. Such premises which are not owned by the respondent cannot be referred as a suitable alternative accommodation available to fulfill the needs of

the landlord/owner of the property.

6. In the aforementioned facts and circumstances, reliance on the decisions of learned Single Judges of this court in Deepak Gupta vs. Sushma

Aggarwal, RC.Rev.180/2013, decided on 24.07.2013, and Narender Kumar Manchanda & Anr. vs. Hemant Kumar Talwar, RC Rev.107/2012,

decided on 10.12.2012, is misplaced.

7. The petition is, thus, found to be devoid of substance and is dismissed.

8. Pending applications also stand disposed of.