

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : DELHI RENT CONTROL ACT

Date of Judgment: 22.02.2012

CM(M) 223/2012 and CM Nos. 3236-3237/2012

PARVINDER KAUR Petitioner
Through Mr. S.K.Sharma and Mr. Ashok Kumar, Adv.

Versus

RAMESH KUMAR JAIN & ANR Respondents
Through Mr. Vijay Kumar Wadhwa, Adv.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)
CAV 188/2012

Caveator has put in appearance. Caveat has become infructuous.
Dismissed.
CM(M) 223/2012 and CM Nos. 3236-3237/2012

1 Order impugned before this Court is the order dated 17.01.2012 passed by the Rent Control Tribunal (RCT) which has endorsed the finding of the Additional Rent Controller (ARC) dated 01.06.2011 vide which the objections filed by the applicant Parvinder Kaur seeking setting aside of the eviction decree dated 13.08.2009 had been dismissed.

2 Certain facts are undisputed. The original tenant was Jagjit Singh; he had died on 17.02.2007; he had left behind one son Jaswinder Singh as also a widow and a married daughter. The eviction petition had been filed in the year 2009 arraying Jaswinder Singh as a legal representative of the deceased Jagjit Singh; contention being that he was in occupation of the disputed shop

after the death of his father; in fact Jaswinder Singh had also filed an application under Section 27 of the Delhi Rent Control Act (DRCA) seeking deposit of amount in lieu of premises which was stated to be under his tenancy. The application seeking leave to defend filed by the tenant Jaswinder Singh had been dismissed by the ARC on 13.08.2009; eviction decree had fallen in the hands of the landlord. The revision petition filed against the judgment dated 13.08.2009 was dismissed by the High Court on 15.01.2010; the contention in the revision petition was largely to the effect that the petition is bad for non-joinder of necessary parties as all the legal heirs of Jagjit Singh have not been impleaded as parties; revision petition was dismissed on 15.01.2010; execution proceedings followed which were filed on 19.02.2010. Three days after i.e. 22.02.2010, the present objections had been filed by the sister of Jaswinder Singh namely Parvinder Kaur claiming herself as another legal representative of Jagjit Singh and had sought a right of hearing independent to that of Jaswinder Singh; her contention is that impleadment of Jaswinder Singh alone as the legal representative of Jagjit Singh did not suffice and she was also required to be heard. These objections were filed by the objector on 22.02.2010. Pertinent would it be to note that in the entire objection petition, it is not the case of the objector/applicant that her interest was at variance with that of her brother Jaswinder Singh or that she has any independent title or right in the suit property; her contention only being to the effect that she also being a co-tenant along with her brother, she was also required to be heard. Oral submissions made by the objector/applicant are to the effect that she is a married daughter and she was living in a separate independent accommodation; she was not aware whether her brother was in occupation of this shop or that he was contesting the proceedings right up to the High Court; objection petition further states that recently she came to know about the dismissal of the revision petition in the High court; how and when she came to know about this has neither been averred in the objection petition and neither hers counsel is in a position to this query posed to him.

3 The law is well settled; in a commercial tenancy after the death of the original tenant, the legal representatives of the deceased inherit the tenancy as joint tenants; the incidence of the tenancy is the same as that enjoyed by the original tenant; it is a single tenancy which devolves on the heirs and there is no division of the premises. This has been reiterated by the Apex Court in (1989) 3 SCC 77 H.C. Pandey Vs. G.C. Paul. Notice to one joint tenant is sufficient to terminate the tenancy and suit cannot be held to be bad for non-joinder of other tenants or the other legal heirs of the deceased.

There is also no quarrel to this proposition. The objector is also not setting up any independent title or claim in the suit property; her case also does not fall within the proviso to Section 25 of the DRCA; this is also clear from the objections filed by her, she is only claiming her right through her deceased father.

4 The conduct of the objector/applicant has also been noted by the two courts below. It has been noted that the objections have been filed on 22.02.2010 i.e. less than three weeks after the revision petition had been dismissed by the High Court which on 15.01.2010; how and from where the applicant/objector learnt about the dismissal of the revision petition in the High Court is not known; it is clear that the objector was acting at the behest of her brother and was only buying more time set up her alleged claim by filing separate objections.

5 These objections were rightly dismissed as this objector is not claiming any independent title; she is only claiming as a legal representative along with her brother Jaswinder Singh; objection petition also nowhere states that her interest in the suit premises is at variance with that of her brother Jaswinder Singh. Being a married sister, how she came to know about the litigation which was being fought by her brother right up to the High court and within three weeks of the dismissal of the petition of her brother in the High Court, she had filed a separate claim has not been explained.

6 These facts which have emanated clearly show that the applicant/objector was only acting as a stooge of her brother whose objections already stood dismissed by the High Court; this was nothing but an attempt to further delay and defeat the eviction petition which has since attained a finality.

7 The impugned judgment in this background calls for no interference. Dismissed.

Sd./-
INDERMEET KAUR, J

FEBRUARY 22, 2012