

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : Delhi Rent Control Act, 1958

Date of Reserve: July 04,2008

Date of Order: July 28, 2008

CM(M) 751/2008

Radhey Shyam Decd. Thr. LR's ...Petitioner
Through: Mr. Raghunandan Sharma, Advocate.

Versus

Bhagwan Dass Saini ...Respondent
Through: Nemo

JUSTICE SHIV NARAYAN DHINGRA

JUDGMENT:

1. By this petition under Article 227 of the Constitution of India, the petitioner has assailed the order dated 19th December 2007 passed by learned trial court whereby the learned trial court had allowed an eviction petition under Order 14 (1) (e) of Delhi Rent Control Act, 1958 made by the landlord (the respondent herein). The eviction petition was instituted on 19th December 1995 and was decided by the learned Additional Rent Controller exactly after 12 years on 19th December 2007.

2. The landlord contended that his family consisting of himself, his wife, his one married son, who was having two children and his two unmarried sons besides one more son (son of daughter who was living with him) and the accommodation available in his occupation consisting of two rooms and a kitchen on second floor and one room and store room on the third floor. The accommodation was highly insufficient keeping in mind growth of his family. He had two married daughters who often used to visit the landlord along with her family during festivals and vacations but were unable to stay

due to paucity of accommodation. The tenant had denied the ownership of the landlord, though admitted relationship of landlord and tenant. He also denied that the landlord required the premises bonafidely. The tenant alleged that during the pendency of the petition, two sons of the landlord got settled in Germany. He also submitted that the accommodation available with landlord was much more than what he had stated and he was also having accommodation at Rampura and Palam and that the accommodation available with him was more than sufficient.

3. After appreciating evidence lead by parties, the learned trial court came to conclusion that the landlord proved his title over the tenanted premises. One son of the landlord got a job in Germany during pendency of case and he was regularly visiting the landlord. The other family members of the landlord were living in the same accommodation. The total accommodation available with the landlord was 3 rooms, while the requirement of the landlord was one bedroom for himself and wife, one bed room for his married son, one bed room for his other son, one room for his grandson, one guest room. Thus the landlord would require minimum of 5 rooms while the accommodation available with him was only 3 bed rooms and the requirement of landlord was found bonafide. The contention of the respondent that the accommodation available with the landlord was more than what was asserted was found false. The other contentions that the landlord had alternative accommodation were also found not proved. The learned trial court concluded that the landlord had established that he required the premises bonafidely for himself and his family members.

4. Though, this petition has been filed under Article 227 of the Constitution of India, however, the petitioner had a right to file a revision petition, as well. The powers of this Court, either under Article 227 or under revision are very limited. This Court cannot re-appreciate the evidence and cannot set aside the findings of the trial court by taking a different view on the evidence. This Court is empowered to interfere with the findings of facts only if the findings are perverse and there has been non appreciation and non consideration of the material evidence on record. Simply another view of the evidence may be taken, is no ground for the High Court to interfere in its revisional jurisdiction or in its jurisdiction under Article 227.

5. The only ground on which the order of learned ARC has been challenged is that the landlord does not require the tenanted premises boanfidely for

himself and family and one of the sons of the landlord was settled in Germany.

6. The bonafide requirement of the landlord has been rightly upheld by the trial court. The landlord does require a guest room so that his daughters and sons who were not living with him, on a visit can live with him. Even if a son is settled in Germany, as and when he would visit his father, he cannot be asked to live in a hotel or in a hired accommodation. He has to be accommodated within the family and thus requirement of a guest room for his family is a bonafide requirement. Similarly, the requirement of the married son who is living with him is also a bonafide requirement. The requirements of other two sons who are also of marriageable age, is a bonafide requirement and cannot be considered an artificial requirement. Similarly, the requirement of grandson who is living with the landlord and was of growing age, was also a bonafide requirement.

7. I find no merits in this petition. The petition is hereby dismissed. No orders as to costs.

Sd/-

SHIV NARAYAN DHINGRA J.