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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 27.05.2024
Judgment pronounced on: 29.05.2024

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RC.REV. 560/2019 & CM APPL. 42635/2019 (ex-parte ad interim stay)

DR ARUN PURI & ANR

..... Petitioners

Through: Ms Vaishalee Mehra, Adv.

versus

RAJINDER KUMAR AGGARWAL

..... Respondent

Through: Mr Bharat Chugh, Mr Ajatshatru Singh Rawat, Mr Aditya Narayan Shukla and Mr M. Nirvikar Singh, Adv

CORAM: JUSTICE GIRISH KATHPALIA**J U D G M E N T**

1. By way of this petition, brought under proviso to Section 25B(8) of the Delhi Rent Control Act, 1958, the petitioners/tenants have assailed the order passed by the learned Additional Rent Controller, Central District, Delhi whereby application of the petitioners seeking leave to contest the proceedings under Section 14(1)(e) of the Act was dismissed. On service of notice of these proceedings, respondent/landlord entered appearance through counsel. I heard learned counsel for both sides.



2. Briefly stated, circumstances relevant for present purposes are as follows.

2.1 The present respondent, claiming himself to be owner of entire first floor and second floor of premises bearing No. 2/21, Roop Nagar, Delhi (hereinafter referred to as “the subject premises”) filed an eviction petition pertaining to the same against the present petitioners, pleading that he alongwith one Vishan Dass Sethi purchased the entire premises No. 2/21, Roop Nagar, Delhi by way of registered Sale Deed dated 16.05.1985 from the erstwhile owner Shri Maqsudan Lal and Shri Gurcharan Lal; that subsequently he acquired the undivided share of Shri Vishan Dass Sethi by way of registered Release Deed dated 16.10.1987; that Dr Smt Sushil Puri, the now deceased mother of the present petitioners was inducted as a tenant in the subject premises by its erstwhile owner; that the subject premises are now in possession of the present petitioners and the same are lying unused and vacant for past several years; that the present respondent is Managing Director of a company named JCBL Limited in which his wife, son and daughter are major share holders, so JCBL Limited is a closely held family company; that earlier, JCBL Limited was operating its business from tenanted premises at B-28, Maya Puri, Industrial Area, New Delhi under a registered lease deed dated 29.12.2008 and was paying monthly rent of Rs.1,05,000/- to its landlords but JCBL Limited had to vacate the said property and take on rent another property in Village Jagatpur, New Delhi



at a monthly rent of Rs.44,000/- but even that property had to be vacated and JCBL Limited had to shift to another property in Nehru Place on monthly rent of Rs. 36,000/-; that now even that property of Nehru Place has been vacated in December 2007 by JCBL Limited, so the present respondent requires the subject premises to continue the business of JCBL Limited; that his wife owns a premises in Hauz Khas, but the same is a residential property and that too under reconstruction, so not fit for commercial use; that his daughter Aarti Aggarwal is running business under the name and style House of Design, now known as Knock on Wood and earlier she was operating from a tenanted premises in Shahpur Jaat at a monthly rent of Rs.80,000/- but had to vacate the same and shifted in Village Sultanpur at a monthly rent of Rs.30,250/-; that his son Rishi Aggarwal, a major shareholder in JCBL Limited often visits Delhi for business development and for that purpose requires an office; that the subject premises are situated in prime locality; that for the ground floor of the said larger premises, the present respondent has already initiated eviction proceedings against other tenants; that in these circumstances he is in *bona fide* requirement of the subject premises for commercial use by his company JCBL Limited as well as for business venture of his daughter and son; that he intends to use first floor of the subject premises to run a guest house of JCBL Limited and second floor of the subject premises for his daughter's business; that he has no reasonably suitable alternate accommodation.



2.2 On service of summons in the prescribed format, the present petitioners filed application for leave to contest the proceedings before the learned Additional Rent Controller, pleading that the subject premises have been used by them for running a nursing home and there has been no change in the non-residential use of the same; that despite several requests the present respondent has not been getting the subject premises repaired, which has caused financial burden on them; that earlier also twice the present respondent had filed eviction petitions against them, which were dismissed as he failed to adduce any evidence; that the present respondent has no intention to reside or work in Delhi as he is a resident of Chandigarh, so his aim is to evict all tenants and sell away the entire property; that the present respondent also has available with him basement and ground floor with driveway of property No. L1/18, Hauz Khas Enclave, Delhi, out of which the basement can be used for commercial purposes and ground floor with driveway can be used for residential purposes; that the present respondent also has available the accommodations in premises No. 26/29, Punjabi Bagh, New Delhi and N-57, Greater Kailash-I, New Delhi; that according to records of the Ministry of Corporate Affairs, presently registered office of JCBL Limited is at L1/18, Ground floor, Hauz Khas Enclave, New Delhi which is owned by wife of the present respondent; and that son and daughter of the present respondent are independent professionals, not dependent upon the present respondent for their business needs.



2.3 The present respondent filed reply to the application for leave to contest, reaffirming the petition contents. The present respondent in reply to the application for leave to contest pleaded that after death of mother of the present petitioners, the subject premises are not being used at all; that a part of ground floor of the said larger premises has been vacated by Dena Bank and the same is being used as a small store by him; that the Hauz Khas Enclave property is residential property and cannot be used for commercial purpose and even otherwise, it has been demolished by its owner for reconstruction; that the properties of Punjabi Bagh and Greater Kailash are not his properties; that the registered office of JCBL Limited had to be shown on papers at Hauz Khas Enclave to meet the requirement of an office in Delhi but that property is a residential one; that his daughter has been running her independent business but from tenanted premises, so she needs his support.

2.4 The present petitioners filed rejoinder in the application for leave to contest. After hearing both sides, the learned Additional Rent Controller dismissed the application for leave to contest by way of the impugned eviction order.

2.5 Hence, the present petition.

3. During final arguments, learned counsel for petitioners took me through the entire record and contended that the impugned eviction order is



not sustainable in the eyes of law. Learned counsel for petitioners strongly contended that the present respondent is already engaged in a business of luxury buses and does not require the subject premises, especially because he is residing in Chandigarh. Learned counsel for petitioners admitted that the subject premises are lying unused and locked for past few years, but blamed the present respondent for not having got the same repaired. Learned counsel for petitioners also submitted that since the earlier eviction petitions were dismissed in default, it shows that the present respondent does not seriously require the subject premises.

4. On the other hand, learned counsel for respondent supported the impugned order and contended that the present petition is completely devoid of merits. Learned counsel for respondent submitted that for past 10 years, the subject premises are not even being used and the petitioners are interested only in arm-twisting the respondent to pay money. As regards dismissal in default of the previous eviction petitions, learned counsel for respondent explained that the respondent was suffering with cancer so could not remain diligent. It was also argued that there is nothing on record to suggest that the present petitioners ever approached any court for repair of the subject premises. With the help of judicial precedents, learned counsel for respondent contended that financial independence of children of respondent does not mean independence for the purposes of accommodation. It was also argued that financial affluence of the respondent has no relevance to the eviction proceedings of the present



nature.

5. In rebuttal arguments, learned counsel for petitioners contended that since the present respondent did not specifically plead in the eviction petition that he has no reasonably suitable alternate accommodation, the petition itself must fail. In support of her arguments, learned counsel for petitioners place reliance on the judgment of Hon'ble Supreme Court in the case of *Abid-ul-Islam vs Inder Sain Dua*, Civil Appeal No. 9444 of 2016 decided on 07.04.2022.

6. Thence, in the present case, there is no dispute that the present respondent is owner of the subject premises and that there exists a *jural* relationship of tenancy between the parties. The core issue in the present case is that according to the present petitioners, the requirement of the subject premises as projected by the present respondent is not *bona fide* because his children are financially independent and the present respondent owns reasonably suitable alternate accommodation.

7. To begin with is the argument taken for the first time on behalf of the present petitioners at the stage of rebuttal that the eviction petition itself deserves to be rejected for want of specific pleadings that the present respondent does not own any reasonably suitable alternate accommodation. This argument must fail, as it is totally contrary to record. In the eviction petition, the present respondent specifically pleaded at various places that



he has no reasonably suitable alternate accommodation. Even otherwise, such a hyper-technical approach is not sustainable in the eyes of law as viewed by me in the case of ***Madhulika Gupta vs M/s Safeway Enterprises Pvt Ltd***, RC Rev 99/2023, decided on 29.05.2024.

8. As mentioned above, the present respondent in his eviction petition pleaded that he requires the subject premises for being used as a guest house of JCBL Limited on first floor and for business establishment of his daughter on the second floor. According to the present petitioners, since daughter of the respondent is financially well off, the requirement projected for her is not *bona fide* and since the registered office of JCBL Limited is in Hauz Khas Enclave and son of the respondent also is financially well off, neither JCBL Limited nor son of the respondent need accommodation.

9. Admittedly, daughter of the respondent is carrying on her business from tenanted premises and she had to keep shifting her workplace on account of expiry of lease periods. It also is reflected from record that JCBL Limited also had been operating from the tenanted premises and had to keep shifting due to expiry of lease periods. It is not in dispute that the respondent and his children are majority shareholder of JCBL Limited.

10. So far as the requirement of daughter of the respondent is concerned, it is trite that the expression “dependent” in the proceedings of the present nature has to be construed widely to include not just financial but even



emotional dependence and dependence for accommodation. Where the landlord wants to ensure that his children do not have to spend money on rent, his requirement of the tenanted premises cannot be considered lacking in *bona fides*. The emotional dependence of the landlord on his family members and vice versa also cannot be ignored in the proceedings of the present nature. The “dependence” in such proceedings has to be interpreted judiciously keeping in mind intent behind the enactment. The Delhi Rent Control Act was enacted not to kill rights of an owner of a property who had inducted tenant in the same. The Act was enacted solely to protect the interest of the tenant so as to prevent his exploitation for monetary gains. For *bona fide* enjoyment of the tenanted premises, the Act does not confer on the tenant a right superior to that of the landlord.

11. There is no explicit statement in the Delhi Rent Control Act to describe as to who is a dependent on the landlord and what constitutes a family. The enactment consciously uses the expression “for any member of his family dependent on him (*the landlord*)”, deliberately not confining the dependence to financial one. It is necessary to understand that in social milieu, the expression “dependence” is not confined to financial or physical one but means emotional one as well. In the case of *Corporation of the City of the Nagpur vs The Nagpur Handloom Cloth Market Co. Ltd.*, AIR 1963 SC 1192, the Supreme Court held that the expression “family” has according to the context in which it occurs a variable connotation, which does not postulate existence of relationship by blood or marriage only, and



rather even a single person or master-servant can also be regarded as a family, depending upon the context. Therefore, the “dependence” in the present case cannot be narrowly construed so as to exclude the gainfully employed daughter and son of the respondent from the scope of *bona fide* requirement.

12. Further, as mentioned above, JCBL Limited is basically a company in which the respondent and his family hold major share. As specifically pleaded by the present respondent, his son has to frequently visit Delhi and needs an office and place to stay, so JCBL Limited has requirement of a guest house. In the Indian society, a father desiring his children - be it daughters or sons to join his business and grow the same further with their fresh blood is not something outlandish or infelicitous. Such a father cannot be told not to make it convenient for his son to visit, stay and work in Delhi in order to expand their business because for that purpose they would have to put their tenant to an inconvenience.

13. In this regard I have already taken a view after detailed discussion in the case of *Charanjeet Singh vs Vivek Jain*, 2024 SCC OnLine Del 613 that merely because children of the landlord are financially independent, it cannot be said that requirement of the tenanted premises setup by the landlord for their use is not a *bona fide* requirement.



14. Coming to the other prong of challenge that the respondent has available to him reasonably suitable alternate accommodation, according to the petitioners, there are three premises available to the present respondent, and the same are in Hauz Khas Enclave, Greater Kailash and Punjabi Bagh. In response, the present respondent specifically pleaded that he does not own the Greater Kailash and Punjabi Bagh properties and further explained that Hauz Khas Enclave property owned by his wife is a residential property, which is under reconstruction, so cannot be used for commercial purposes.

15. Despite specific pleadings of the present respondent that the Greater Kailash and Punjabi Bagh properties are not owned by him and that the Hauz Khas Enclave property is a residential property, that too under renovation, so not available, the present petitioners did not place on record any cogent evidence to show otherwise. In this regard, I have already taken a view after detailed discussion in the cases titled *Rajiv Kumar & Anr vs Chaman Lal & Ors*, 2024 SCC OnLine Del 833 and *SCON Financial Services Pvt. Ltd vs SC Kaura*, 2024:DHC:3929 that where a tenant in the application for leave to contest pleads that the landlord owns another premises, which pleadings are denied by the landlord, mere affidavit of the tenant is not sufficient and the tenant must place on record some document in support of his pleadings; that grant of leave to contest merely on the basis of affidavit of tenant, contents whereof are denied by the landlord on oath and thereby pushing the parties to undergo rigmaroles of full dress trial



would completely negate the sacrosanct principles underlying Chapter IIIA of the Delhi Rent Control Act.

16. It would also be significant to note that on the very first date 23.09.2019, after preliminary hearing before the learned predecessor bench, counsel for the present petitioners took adjournment to obtain instructions *qua* grant of reasonable time to vacate the subject premises. This shows that the predecessor bench as well as learned counsel for the present petitioners also did not feel convinced *qua* merits of this case.

17. I am in complete agreement with argument of learned counsel for respondent that financial affluence of the landlord has no bearing on the proceedings under Section 14(1)(e) of the Act. There is no law that requirement of the rich man must be presumed to be devoid of *bona fide*.

18. I am unable to find any infirmity, much less any perversity in the impugned order which would warrant intervention by this court. Therefore, the impugned order is upheld and the present petition as well as pending applications are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

MAY 29, 2024/as