



2025:DHC:962



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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of Decision: 28.01.2025*

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RC.REV. 246/2024**SURENDER SINGH**

.....Petitioner

Through: Mr. Vineet Jain, Mr. Mayank Jain,
Advs..

versus

M/S DILSHAD ENGINEERING WORKS AND ANR

.....Respondents

Through: Mr. Shashank Tripathi, Mr. Ragib
Gayyur, Advs.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Revision Petition has been filed by the Petitioner/landlord impugning the order dated 02.08.2024 passed by the learned SCJ-cum-RC, (West), Tis Hazari Court, Delhi passed in RC ARC no. 75/2023 [hereinafter referred to "Impugned Order"]. The premises in issue is a property bearing Plot no. 41, Gali No. 30, New Rohtak Road, Daya Basti, Anand Parbat, New Delhi-110005 [hereinafter referred to as the "subject premises"].

2. By way of the Impugned Order, the learned Trial Court has allowed the Leave to Defend/Contest Application filed by the Respondents/tenants, on an issue limited to the existence of landlord-tenant relationship between the parties.

3. With the consent of the parties, the matter is taken up for hearing and final disposal today.

4. Learned Counsel for Petitioner/landlord in the first instance



submits that the Impugned Order itself in paragraph 25 records that there is no dispute in the relationship of landlord and tenant between the parties, yet learned Trial Court has given a finding that the Respondents/tenants have raised triable issues concerning the ownership of the subject premises. Reliance in this regard is placed on para 25 of the Impugned Order.

5. In addition, learned Counsel for Petitioner/landlord submits that even otherwise, ownership or relationship of landlord and tenant was not disputed by the Respondents/tenants in their Leave to Defend Application, wherein it has been stated that the father of the Petitioner was the owner of the subject premises and he granted tenancy of the subject premises to the father of the Respondents. Reliance is placed on Paragraph 6 of the Leave to Defend Application filed by Respondent/tenant.

6. In addition, reliance is also placed on rent receipts dated 01.07.2004, 18.08.2004 and 01.12.2024 which were annexed by the Petitioner/landlord along with the Eviction Petition before the learned Trial Court.

7. Learned Counsel for Respondents/tenants submits that the Respondents are the owner of the subject premises and are claiming ownership on the basis of the receipts dated 13.10.2013, 22.11.2013, 12.12.2013 etc. which were executed by the Petitioner evidencing payments made in consideration for transfer of ownership of the subject premises [hereinafter referred to as “payment receipts”]. Reliance is placed on paragraph 8 of the application for leave to defend, wherein a



similar stance has been taken.

7.1 The learned Counsel for Respondents, however concedes that the Respondents do not have any registered document in support of their ownership of the subject premises.

8. The *bona fide* need as set out by the Petitioner/landlord in the Eviction Petition is for his sons who are unemployed and want to start their business of motor parts and motor body parts from the subject premises. The *bona fide* need of the Petitioner/landlord has not been challenged by the Respondent/tenant either before the Trial Court or before this Court.

9. On the aspect of suitable alternate accommodation, the Petitioner/landlord has specified that no other suitable commercial property is available with the Petitioner/landlord. The same has not been disputed by the Respondent/tenant either before the Trial Court or before this Court.

10. The only issue which has thus to be examined by this Court is on the aspect of landlord-tenant relationship/ownership. The learned Trial Court has given a finding that the Respondents/tenants have been successful in raising a triable issue concerning the landlord-tenant relationship between the parties/ownership of the subject premises since Petitioner/landlord failed to explain in his counter affidavit to the Application for leave to defend/contest as to in what circumstance the payment receipts were executed since the Petitioner/landlord simply stated that the payments receipts were forged and fabricated.



11. It is the contention of the Petitioner/landlord that the subject premises was let out by the father of the Petitioner/landlord to the father of the Respondents. However, upon demise of the father of the Respondents, the Respondents stepped into the shoe of tenants and attorned to the petitioner as landlord by paying a monthly rental of Rs. 500/- per month for which the rent receipts were also executed.

11.1 An examination, of the leave to defend filed by the Respondents/tenants shows that the Respondents/tenants have admitted that the subject premises was let out by the father of the Petitioner/landlord to the father of the Respondents. It has further been specified that a civil proceeding was filed wherein the Respondents were directed to pay the rental of Rs. 70/- per month. Relevant extract of the leave to defend/contest application is reproduced below:

“6. That it is further pertinent to mention here that the father of petitioner was the owner of this above property and he granted the tenancy to the respondent's father for the above said property. It is also pertinent to mention here that one civil suit was decided regarding ‘this above said property between the petitioner and father of the respondents and Honb'le court was directed to respondents to submit the rent amount Rs. 70/- (seventy) per month in treasure and after death of the father of respondents tenancy was shifted to the respondents and respondents purchased the above said property from the petitioner in the year of 1996 and in the year of 2013 along with possession.”

[Emphasis Supplied]

12. It is the contention of the Respondents/tenants that they became owners of the subject premises in the year 1996. However, the record reflects that rent receipts have been executed thereafter, by the Respondents/tenants on 01.07.2004, 18.08.2004 and 01.12.2004.

13. Although, the Respondents/tenants have repeatedly raised the



contention that they purchased part of the subject property in 1996 and the remaining in 2003, these are claims remain substantiated. The documents on which Respondents/tenants are relying on are the payment receipts, telephone bills and electricity bills. The Respondents/tenants have failed to place on record any registered document evidencing the title of the Respondents over the subject premises.

14. It is settled law that no transfer of title can occur without a registered document of sale, which admittedly the Respondents/tenants do not possess. In the case of *Beena v. Charan Das*¹, the Supreme Court has held that in the absence of a registered document no transfer of title can pass from one party to another. The relevant extract of the judgement is reproduced below:

*“19. The Rent Controller in passing the consent order on 05.09.1979 recorded that the dispute between the landlord and tenant had been compromised. According to the terms of the compromise contained in the statements of the parties, on the payment of Rs. 12,500/- by the tenant as the price of the house, he was to become the owner in possession. This narration of fact that the tenant would become the owner in possession in the order of the Rent Controller is obviously against the record, i.e., the statement of the parties, wherein it has nowhere been stipulated that the tenant, on deposit would become the owner of the property. However, in the end, the Rent Controller himself records that on the price of Rs. 12,500/- being deposited on or before the 15.12.1979, the application of the landlord would be deemed to have been dismissed and on failure to deposit, it shall deem to have been allowed. It means the aforesaid consent order was only with regard to dismissing and allowing of the application of the landlord in the eventuality of depositing of the amount and non-depositing of the amount by the tenant. The settlement recorded in terms of the statements of the parties and even the consent order does not in any way provide or confer right of ownership upon the tenant, nor it could have been done in a proceeding for eviction of the tenant. **No document, much less a registered instrument, was executed between the parties transferring the title of the suit premises. In its absence obviously no transfer of title can pass from***

¹ 2024 SCC OnLine SC 2490



one party to another. *In such a proceeding, the only option available to the Rent Controller was either to order eviction or to dismiss the application for eviction as has been done by him.”*

[Emphasis Supplied]

15. In any event, the challenge to the title of Respondents is barred by the provisions of Section 116 of the Evidence Act, 1872/Section 122 of The Bharatiya Sakshya Adhiniyam, 2023, which provides for an estoppel on the tenant to deny the title of the landlord. Section 116 of the Evidence Act, 1872 is reproduced below:

“116. Estoppel of tenants and of licensee of person in possession. — No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession there of shall be permitted to deny that such person had a title to such possession at the time when such licence was given.”

15.1 The Supreme Court in the case of ***Bansraj Laltaprasad Mishra v. Stanley Parker Jones***,² has held that where a person has been brought into possession as a tenant by the landlord and if such tenant is permitted to question the title of the landlord, it will give rise to extreme confusion in the matter of relationship of the landlord and tenant and hence the equitable principle of estoppel has been incorporated by the legislature. The relevant extract of the ***Bansraj Laltaprasad Mishra case*** is reproduced below:

“13. *The underlying policy of Section 116 is that where a person has been brought into possession as a tenant by the landlord and if that tenant is permitted to question the title of the landlord at the time of the settlement, then that will give rise to extreme confusion in the matter of relationship of the landlord and tenant and so the equitable principle of estoppel has been incorporated by the legislature in the said section.*

² (2006) 3 SCC 91



14. The principle of estoppel arising from the contract of tenancy is based upon a healthy and salutary principle of law and justice that a tenant who could not have got possession but for his contract of tenancy admitting the right of the landlord should not be allowed to launch his landlord in some inequitable situation taking undue advantage of the possession that he got and any probable defect in the title of his landlord. It is on account of such a contract of tenancy and as a result of the tenant's entry into possession on the admission of the landlord's title that the principle of estoppel is attracted.

15. Section 116 enumerates the principle of estoppel which is merely an extension of the principle that no person is allowed to approbate and reprobate at the same time."

[Emphasis Supplied]

16. It is settled law that what a landlord has to prove is a better title than the tenant to seek his eviction from a tenanted premises under Section 14(1)(e) of the Act. The Supreme Court in the case of *Shanti Sharma v. Ved Prabha*³ has held as follows:

"14. The word "owner" has not been defined in this Act and the word 'owner' has also not been defined in the Transfer of Property Act. The contention of the learned Counsel for the appellant appears to be that ownership means absolute ownership in the land as well as of the structure standing thereupon. Ordinarily, the concept of ownership may be what is contended by the counsel for the appellant but in the modern context where it is more or less admitted that all lands belong to the State, the persons who hold properties will only be lessees or the persons holding the land on some term from the government or the authorities constituted by the State and in this view of the matter it could not be thought of that the legislature when it used the term "owner" in the provision of Section 14(1)(e) it thought of ownership as absolute ownership. It must be presumed that the concept of ownership only will be as it is understood at present. It could not be doubted that the term "owner" has to be understood in the context of the background of the law and what is contemplated in the scheme of the Act. This Act has been enacted for protection of the tenants. But at the same time it has provided that the landlord under certain circumstances will be entitled to eviction and bona fide requirement is one of such grounds on the basis of which landlords have been permitted to have eviction of a tenant. In this context, the phrase "owner" thereof has to be understood, and it is clear that what is contemplated is that where the person builds up

³ (1987) 4 SCC 193



his property and lets out to the tenant and subsequently needs it for his own use, he should be entitled to an order or decree for eviction the only thing necessary for him to prove is bona fide requirement and that he is the owner thereof. In this context, what appears to be the meaning of the term “owner” is vis-a-vis the tenant i.e. the owner should be something more than the tenant. Admittedly in these cases where the plot of land is taken on lease the structure is built by the landlord and admittedly he is the owner of the structure....”

[Emphasis supplied]

16.1 In the case of *Swadesh Ranjan Sinha v. Haradeb Banerjee*⁴, the Supreme Court has, in the context of ownership in an eviction petition, further clarified that:

“9. All that a plaintiff needs to prove is that he has a better title than the defendant. He has no burden to show that he has the best of all possible titles. His ownership is good against all the world except the true owner. The rights of an owner are seldom absolute, and often are in many respects controlled and regulated by statute. The question, however, is whether he has a superior right or interest vis-a-vis the person challenging it....”

[Emphasis supplied]

17. In the present case, the Petitioner/landlord has been able to prove a better title than the Respondents/tenants. It is the case of the Petitioner/landlord that the original owner of the subject premises was the father of the Petitioner/landlord and the father of the Respondents/tenants. Subsequently, the Respondents/tenants started paying a monthly rent of Rs.500/- to the Petitioner/landlord.

18. The Impugned Order has held in paragraph 28 that a triable issue has been raised *qua* the relationship of landlord-tenant. However, in paragraph 25, it has simultaneously given a finding that the relationship

⁴ (1991) 4 SCC 572



of landlord-tenant in the present case is not disputed. The relevant extract of the Impugned Order is reproduced below:

*“25. The first requirement to be proved by the petitioner is the existence of landlord-tenant relationship. In Kanta Goel v. B.P. Pathak (1977) 2 SCC 814; Pal Singh v. Sunder Singh (1989) 1 SCC 444; Dhannalal v. Kalawatibai (2002) 6 SCC 16; Indian Umbrella Manufacturing Co. v. Bhagabandei Agarwalla (2004) 3 SCC 178; and, Mohinder Prasad Jain v. Manohar Lal Jain (2006) 2SCC 724 it was held that the landlord, even if not the absolute owner, is at least one of the co-owners, is entitled to maintain a petition under Section 14(1)(e) of the Act. **In the present case, the relationship of landlord and tenant between the parties is not disputed.***

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*28. The petitioner in his counter affidavit was supposed to explain the circumstances in which the receipts were executed. The petitioner simply stated that the receipts are forged and fabricated. The petitioner further stated that if the receipt were correct, then why the respondents deposited rent in the year 2004. The respondents have also failed to give any explanation for the same. **To my mind, the respondents have been successful in raising a triable issue concerning the ownership of the suit property. Tnable issue also arises regarding the landlord tenant relationship between the parties.**”*

[Emphasis supplied]

18.1 Thus, the Impugned Order cannot be sustained.

19. Given the aforesaid discussion, this Court finds that there is no triable issue in the matter. The present Petition and consequently, the Eviction Petition is also allowed. However, as set out in Section 14(7) of the Act, the Respondents/tenants shall be granted six months’ time to vacate the subject premises.

20. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JANUARY 28, 2025/ ha/x

[Click here to check corrigendum, if any](#)