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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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RC Rev. No. 312/2013

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**30<sup>th</sup> September , 2014**

CANARA BANK

.....Petitioner

Through: Ms. Anupam Dhingra, Mr. Pradeep  
Dewan and Mr. Shashank Khurana,  
Advocates.

VERSUS

T.T.LTD.

..... Respondent

Through: Ms. Shilpi Jain Sharma, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VALMIKI J.MEHTA**

To be referred to the Reporter or not? **Yes.**

**VALMIKI J. MEHTA, J (ORAL)**

1. This petition under Section 25-B(8) of the Delhi Rent Control Act, 1958 (in short 'the DRC Act') impugns the order of the Additional Rent Controller dated 14.5.2013 by which the Additional Rent Controller decreed the *bonafide* necessity eviction petition filed under Section 14(1)(e) of the DRC Act on the ground that the leave to defend application having been filed beyond the statutory period of 15 days therefore such leave to defend application cannot be considered inasmuch as delay in filing of the leave to defend application cannot be condoned in view of the judgment of the

Supreme Court in the case of *Prithipal Singh Vs. Satpal Singh (dead) through LRs (2010) 2 SCC 15*.

2. Learned counsel for the petitioner argued before the Additional Rent Controller below, and which argument is also urged before this Court that even if leave to defend application is not filed, yet, if the eviction petition filed is without jurisdiction ie Section 14(1)(e) of the DRC Act could not at all have been invoked by the respondent-company, then in such a case an eviction petition cannot be decreed because the eviction petition itself was not maintainable.

3. It is true that if the Additional Rent Controller lacks the inherent jurisdiction to decide a case because the provision of Section 14(1)(e) of the DRC Act cannot be invoked, and that actually it is Section 22 of the DRC Act which will apply, then even if there is no leave to defend application, the Additional Rent Controller would be required to consider if the eviction petition itself was maintainable for being decreed under Section 14(1)(e) of the DRC Act. Putting it in other words, if the eviction petition is not maintainable as per the provision under which it is filed, then the special summary procedure provided for deciding that eviction petition under the provision as per which it is filed would not be available, and therefore for

non-compliance of the special procedure in not filing the leave to defend application, the eviction petition cannot be decreed by deemed admission provided under Section 25 B(4) of the DRC Act.

4. I would like to state that where there is a position which shows *ex facie* that a petition is not maintainable because of lack of jurisdiction of the Additional Rent Controller or the provision invoked is on the face of it not maintainable, then in such a case the Additional Rent Controller can go into the aspect of lack of jurisdiction for deciding the decreeing of the *bonafide* necessity eviction petition by applying Section 25-B(4) of the DRC Act for deemed admission, but, where two views are possible, and factual issues are involved, and it cannot be said that *ex facie* the petition is not maintainable under Section 14(1)(e) of the DRC Act, then in such a case, in my opinion, the issue raised is not strictly a legal issue of lack of jurisdiction for an eviction petition not to be filed and decreed under Section 14(1)(e) of the DRC Act read with special procedure provided under Section 25(B) of the DRC Act. These observations are relevant in the present case because there are two views possible of the factual situation as to whether or not the respondent-company can or cannot invoke Section 14(1)(e) of the DRC Act and that it should have only invoked Section 22 of the DRC Act is not that

*ex facie* clear. If therefore two views are possible that Section 14(1) (e) of the DRC Act could or could not be invoked, in such circumstances to argue this aspect that Section 14(1)(e) of the DRC Act definitely could not be invoked and only Section 22 of the DRC Act could be invoked, a leave to defend was required to be filed within the statutory period by petitioner/tenant, and since the leave to defend application was not filed within the statutory period, the Additional Rent Controller was justified in decreeing the petition under Section 25-B(4) of the DRC Act inasmuch as once leave to defend application is not filed within the statutory period of 15 days the contents of the eviction petition are deemed to be admitted and the eviction petition is liable to be decreed.

5(i) Let me in any case now take up the argument and the issue which is urged that the eviction petition could not have been filed under Section 14(1)(e) of the DRC Act, and that issue was an issue of jurisdiction even in the facts of the present case.

(ii) It is argued on behalf of the petitioner that since in the present case the respondent-company/landlord is seeking eviction for the residential need of its employees, the eviction petition could only be filed under Section 22 of the DRC Act and could not have been filed under any circumstances

under Section 14(1)(e) of the DRC Act. The question is, is this argument which is urged correct or not? Reliance is placed on behalf of the petitioner/tenant to three judgments of this Court so as to argue that the eviction petition in the present case could not have been filed under Section 14(1)(e) of the DRC Act by the respondent-company for the residential use of its employees, and which judgments are *Madan Mohan Lal Vs. P.Tandon 21 (1982) DLT 16* (by Justice B.N.Kirpal as he then was); *Satnam Kaur and Ors. Vs. Ashlar Stores P. Ltd. 158(2009) DLT 62* and an unreported judgment of a learned Single Judge of this Court in the case of *Superior Exim Pvt. Ltd. Vs. Sitar Ram Goel*, RCR 401/2012 (alongwith connected petitions) decided on 14.8.2012.

6. In my opinion, the arguments which are urged on behalf of the petitioner have no substance and in fact the judgments which are relied upon by the petitioner in fact go against the petitioner and reasons for which are given hereinafter, but at the outset, let me go to the bare language of Section 14(1)(e) and Section 22 of the DRC Act in order to examine as to whether when a company files an eviction petition for the residential use of its employees, whether such a petition lies only under Section 22 of the DRC

Act or the same can also be filed under Section 14(1)(e) of the DRC Act.

Sections 14(1)(e) and 22 of the DRC Act read as under:-

**“Section 14. Protection of tenant against eviction.- (1) .....**

(e) that the premises let out for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation."

**“Section 22. Special provision for recovery of possession in certain cases.-**

Where the landlord in respect of any premises is any company or other body corporate or any local authority or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in Section [14](#) or any other law, the Controller may, on an application made to him in this behalf by such landlord, place the landlord in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the Controller is satisfied:-

- (a) that the tenant to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment, or
- (b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or
- (c) that any other person is in unauthorised occupation of such premises ; or
- (d) that the premises are required bona fide by the public institution for the furtherance of its activities."

7. A plain reading of Section 22 of the DRC Act shows that landlords who are envisaged in a petition to be filed under Section 22 of the

DRC Act are of three types. First landlords are those landlords which are a company/body corporate. Second type of landlords are the local authorities and the third type of landlords are public institutions. In the present case we are not concerned with those landlords who are local authorities and public institutions and we are only concerned with landlords who are a company or body corporate. The question is whether Section 22 of the DRC Act is the only procedure provided for eviction by a company when the claim is for the residential use of its employees.

8. There are four sub-Sections under Section 22 of the DRC Act viz. sub-Sections (a) to (d). These four sub-Sections provide the four grounds of eviction ie only on these four grounds eviction can be ordered in a petition under Section 22 of the DRC Act and not on the other grounds. Section 14(1) of the DRC Act however contains more than 4 grounds and the grounds contained are from sub-Sections (a) to (l).

9. The last sub-Section (d) of Section 22 of the DRC Act applies to public institutions and therefore, the same does not apply in the facts of the present case because the landlord which is seeking eviction is not a public institution. We are therefore left with sub-Sections (a) to (c). Sub-Section (a) provides for eviction to a landlord company when the employee

who was in employment of the company ceases to be in service and the premises were given to the employee as a residence. This sub-Section also has no application for seeking eviction in the present case where the landlord company is seeking eviction with respect to residential need of its employees. Sub-Sections (b) and (c) which deal with a tenant being evicted on his contravening the terms of his tenancy or an unauthorized person being in occupation of the tenanted premises, will also not apply with respect to the ground on the basis of which eviction is sought in the present case. It is therefore clear that a landlord company when it is seeking eviction of the petitioner for the residential need of its employees is such a cause of action/ground which is not covered under either of sub-Sections (a) to (d) of Section 22 of the DRC Act.

10           The question is that is a landlord company which needs the tenanted premises for residential need of its employees left remediless? The answer is obviously not, and which is for the reason that once Section 22 of the DRC Act does not apply, the general entitlement for eviction of the tenant under the different sub-Sections of Section 14(1) of the DRC Act will step in. Surely, it would be very incongruous to accept the argument of the petitioner that a landlord company in the present case neither can invoke



Section 22 of the DRC Act because sub-Sections (a) to (d) do not cover the facts of the present case and nor can Section 14(1)(e) of the DRC Act be invoked because this provision will not apply allegedly because allegedly the need of the company for residence of its employees cannot be said to be the need of the landlord/company for itself or for its family members. On this short reasoning given above the argument urged on behalf of the petitioner can be rejected and surely a landlord company cannot be left remediless and the effect of accepting the argument urged on behalf of the petitioner would be that tenants of landlord/company can never be evicted although the landlord company requires the tenanted premises for the residential need of its employees.

11           In fact, the reasoning which I have given above is contained in similar sort of words in the case of *Madan Mohan Lal (supra)* which is relied upon on behalf of the petitioner. The relevant paragraph of this judgment is para 5 and which reads as under:-

5.       The two relevant provisions which have to be construed in this case are Section 14(1)(e) and Section 22. Section 14(1)(e) reads as under :-

"(e) that the premises let out for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord

or such person has no other reasonably suitable residential accommodation."

Section 22 reads as under :-

"22. Where the landlord in respect of any premises is any company or other body corporate or any local authority or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in Section 14 or any other law, the Controller may, on an application made to him in this behalf by such landlord, place the landlord in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the Controller is satisfied:-

- (a) that the tenant to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment, or
- (b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or
- (c) that any other person is in unauthorised occupation of such premises ; or
- (d) that the premises are required bona fide by the public institution for the furtherance of its activities."

There can be no dispute that the word "person" would ordinarily include a juristic entity. The submission on behalf of the respondent however, is that Section 22 is a specific section which deals with the right of a company to get back the premises for the use of its employees. It is contended by Shri Gupta that Section 14(1)(e) and Section 22 operate in the same sphere but as section 22 is confined only to specific categories of landlords the said section must prevail. 'Sections 14(1) and 22 of the Act came up for consideration before a single Bench of this Court in Chuni Lal v .University of Delhi, 1970 R.C.R. 742. V.S. Deshpande, J. (as he then was) held that the grounds which are available to corporate bodies and public institutions under Section 22 are in addition to the grounds available to them under Section 14 of the Act. In that case the learned Judge was concerned with the eviction of the tenant under the provisions of Section 14(1)(b), (d) and (h). The occasion to consider the applicability of Section 14(1)(e) did not specifically arise therein. **It is true that a company can obtain premises for use by its employees and this would be regarded as the company obtaining premises for**

its own use. (See L.I.C. of India, Kanpur v. State of U.P. & Ors., 1977 (2) R.C.J. 18, 1976 ALJ 478, H.C. Sharma v.L.I.C. 1969 R.C.R. 436 and B.M.Lall v.Dunlop Rubber co., : [1968]1SCR23 ). The question which arises in the present case is, however, slightly different. What is to be seen is, does Section 22 override Section 14(1)(e) or not, in so far as companies, body corporate or local authorities or public institutions are concerned when they require the premises for use of their employees ? To my mind, (whenever any such type of landlord requires the premises for use of its employees, it is Section 22 alone which would be applicable and not Section 14(1)(e). This does not mean that the other provisions of Section 14 cannot be invoked by such a landlord. As held in Chuni Lal's case (supra), the grounds under Section 14 are in addition to the grounds under section 22. This is because Section 22 is concerned only with specific type of cases, namely, where premises are required by a company for use of its employees. Section 22 is not concerned with the other grounds which are available under Section 14. It may be that some circumstances may exist where a company may require premises, not for its employees, but still for its residence. In such a case Section 14(1)(e) can also be invoked. One such case can be where " the premises are required for residence of the company's Chairman, who may not be regarded as an employee of the company. In such a case the company would be entitled to invoke the provisions of Section 14(1)(e). Where, however, as already observe, the company requires the premises for its employees only the provisions of Section 22, which have been specifically enacted for such a purpose, would be attracted"! Just as Section 25-B is a special category which has been carved out which provides for special procedure for eviction to landlords who require the premises for their personal necessity, as held by the Supreme Court in M/s. Jain Ink Mfg. Co. v. L.I.C. of India and another, 1980 (2) R.C.J. 459, similarly Section 22 is a special category which has been carved out of Section 14 of the Act. (emphasis is mine)

12(i) A reading of the aforesaid para 5 shows that in the case of *Madan Mohan Lal (supra)* itself the learned Single Judge of this Court specifically held that a company can obtain premises for use by its employees and this would be regarded as the company obtaining the premises for its own use. Section 14(1)(e) of the DRC Act uses the

expression “requirement by a landlord for his own use”. Therefore, when a landlord company requires the tenanted premises for the residential use of its employees this requirement falls within the expression under Section 14(1)(e) of the DRC Act that the landlord company requires the tenanted premises for its own use, provided of course the case does not fall within any of the four sub-Sections of Section 22 of the DRC Act and when the case falls under any of these sub-Sections the eviction petition will have to be filed only under Section 22 of the DRC Act. However, certain observations in *Madan Mohan Lal’s case (supra)* cannot be read to mean that even if the case of the landlord is not covered under any sub-Sections of Section 22 of the DRC Act, then, Section 14(1)(e) of the DRC Act cannot be invoked. It is clarified in *Madan Mohan Lal’s case (supra)* that the provision of Section 14 of the DRC Act is in addition to the grounds contained under Section 22 of the DRC Act. Therefore, the argument urged on behalf of the petitioner that the requirement by the landlord company for the tenanted premises for residential use of its employees cannot be said to be the use of the landlord company is misconceived. The observations made in para 5 of the judgment in *Madan Mohan Lal’s case (supra)* of the requirement of employees being the requirement of the company answers the argument urged on behalf of the petitioner, and which argument is therefore rejected that the landlord

company when it sues a tenant for eviction for residential need of its employees, such a petition cannot be filed under Section 14(1)(e) of the DRC Act.

(ii). I may also note that the observations made by a learned Single Judge of this Court in the case of *Madan Mohan Lal (supra)* has to be read with the context of para 7 of the said judgment wherein Section 22 of the DRC Act was held to be applicable by applying sub-Section (b) thereof ie the eviction by the landlord company in that case fell under Section 22 of the DRC Act, and consequently, it was held that the landlord company in the facts of the said case because of being covered under Section 22 of the DRC Act, hence it would not be able to invoke Section 14(1)(e) of the DRC Act. Therefore, it is futile for the petitioner to argue that Section 14(1)(e) of the DRC Act cannot be invoked by a landlord company when the landlord company needs the tenanted premises for the residential use of its employees.

13. The judgment of a learned Single Judge of this Court in the case of *Satnam Kaur (supra)* also in my opinion does not favour the petitioner because the learned Single Judge of this Court in that case has referred to the judgment of this Court in the case of *Chunni Lal Vs.*

*University of Delhi 1970 RCR 742* wherein after comparison of Sections 14 and 22 of the DRC Act it has been observed that grounds given under Section 22 of the DRC Act are in addition to the grounds given for eviction to a company being various sub-Sections of Section 14(1) of the DRC Act. The judgment of *Chunni Lal's case (supra)* has also been referred to by Hon'ble Mr. Justice B.N.Kirpal (as he then was) in the judgment in the case of *Madan Mohal Lal (supra)* in para 5 of the judgment and which has already been reproduced above. In the case of *Satnam Kaur (supra)* no doubt a learned Single Judge of this Court held that requirement of residence of the Directors of a company can be included under Section 14(1)(e) of the DRC Act, however, it is not held in this judgment as is sought to be urged on behalf of the petitioner that requirement of a landlord company for use of its employees is not for its own use ie *Satnam Kaur's case (supra)* does not hold that when the need is of a landlord company for residential use of its employees, Section 14(1)(e) of the DRC Act cannot be invoked, as there are no such observations made by the learned Single Judge of this Court in the case of *Satnam Kaur (supra)*.

14           The judgment in the case of *Superior Exim Pvt. Ltd. (supra)* will not apply because that was a judgment which dealt with the issue of

leave to defend and a learned Single Judge of this Court who has passed that judgment has been careful to make observations that whatever observations which are being made in that judgment are only prima facie in nature and for the purpose of deciding the issue of grant or denial of leave to defend ie no final ratio has been laid down that a landlord company cannot file an eviction petition for *bonafide* necessity qua tenanted premises when the landlord company requires the tenanted premises for *bonafide* need of the residence of its employees.

15. Accordingly, in my opinion, not only in the facts of the present case petitioner could not have raised this issue of eviction petition not being maintainable under Section 14(1)(e) of the DRC Act in the absence of having filed the leave to defend application within the statutory period of 15 days, and even if this argument is otherwise considered and has been so considered by this Court above, the argument is without merit and it is held that the provision of Section 22 of the DRC Act is in addition to the provision of Section 14(1)(e) of the DRC Act and when a landlord company requires the premises for residential need of its employees, such a need is for its own use as per Section 14(1)(e) of the DRC Act, and such an eviction

petition for its own use is to be filed and is maintainable under Section 14(1)(e) of the DRC Act.

16. In view of the above, the petition is therefore dismissed, leaving the parties to bear their own costs.

**SEPTEMBER 30, 2014**  
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**VALMIKI J. MEHTA, J.**