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

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Judgment delivered on: 31.10.2019

+ RC.REV. 539/2016

RAVINDER SINGH & ANR

..... Petitioners

versus

SAROJ SINGH & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Praveen Suri, Advocate with petitioner no. 1 & 2 in person.

For the Respondent: Ms. Gita Dhingra, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner/landlord impugns order dated 19.08.2016 whereby eviction petition filed by the petitioner under Section 14 (1) (e) of Delhi Rent Control Act, 1958 on the ground of bonafide necessity has been dismissed by the Rent Controller after trial.

2. Petitioner had filed the subject eviction petition seeking eviction of the respondents from one room, one kitchen, one bathroom/WC on the first floor of Property bearing No. 11200-B, First Floor, Mandir Road, Gaushala Marg, Kishan Ganj, Near Arya

Samaj Mandir, Delhi, more particularly shown in red colour in the site plan annexed to the eviction petition.

3. Petitioners had filed the subject eviction petition seeking eviction of the respondents on the ground that they are residing on the ground floor consisting of four rooms, four kitchens and WC and the family of petitioner no. 1 comprises of petitioner no. 1 himself, his wife, two daughters and one son. One daughter and one son of petitioner no. 1 are married and the son also has a daughter from the wedlock. Accordingly, family of petitioner no. 1 comprises of him, his wife and one married son, one unmarried daughter, daughter-in-law and granddaughter. Family of Petitioner no. 2 comprises of himself, his wife and three unmarried daughters, two of whom are major. In these circumstances, the petitioners submitted that they require 7 (seven) rooms for their use and occupation and they only had four rooms on the ground floor.

4. There are two tenants on the first floor; both having equal accommodation of one room, one kitchen and one bathroom/WC each.

5. Subject eviction petition was dismissed by the Rent Controller holding that as per the respondent tenant, petitioners are in occupation of 8 (eight) rooms on the ground floor and further that the site plan filed by the petitioner was not proper as it did not have the exact dimensions of the properties. It was further held that at the time of

grant of leave to defend the petitioners had admitted that petitioners had inducted tenants in two rooms and the petitioner has not been able to show which are the said two rooms.

6. Learned counsel for the petitioners contends that even if the site plan filed by the respondent was to be taken into account, it clearly shows that there are only four rooms in possession of the petitioners. The four rooms held by the Rent Controller to be rooms are of the dimensions 7.3' x 6', which would not qualify as bed rooms.

7. Learned counsel for the petitioner further submits that it was for the tenant to show that Petitioner had inducted any fresh tenant and the Rent Controller has incorrectly placed the onus on the petitioner.

8. After some arguments, learned counsel for respondents under instructions from the respondents submits that the respondents admit the relationship of landlord-tenant and admit that the Petitioners are the owners and landlords of the subject premises. They further admit that the need of the petitioners is bonafide. They further admit that the petitioners do not have any other suitable alternative accommodation available with them.

9. Learned counsel appearing for the respondents under instructions from the respondents submits that the respondents admit the claim of the petitioners and do not wish to contest the eviction petition and pray that an eviction order be passed, however, permitting them to continue to occupy the premises till 30.04.2020.

10. Learned counsel appearing for the respondents further undertakes on behalf of the respondents that the respondents shall vacate and handover the peaceful vacant possession of the tenanted premises to the petitioner on or before 30.04.2020. Learned counsel further undertakes on behalf of the respondents that they shall pay use and occupation charges per month at the agreed rates till the time they hand over the peaceful vacant possession of the tenanted premises to the petitioners on or before 30.04.2020.

11. Learned counsel for the respondents further undertakes that respondents undertake to clear the water, electricity and other dues/charges in respect of the tenanted premises before they vacate the premises. She further undertakes that they shall not sublet, assign or part with the possession of the tenanted premises or any part thereof. She further undertakes that they shall not cause any damage to the property and shall hand over the peaceful vacant possession of the same in the condition as it exists today subject to normal wear and tear.

12. The undertaking is accepted.

13. Learned counsel for the petitioners under instructions from the petitioners submits that the undertaking is also acceptable to the petitioners.

14. In view of the above, the impugned order dated 19.08.2016 is set aside. The eviction petition is allowed. Decree of eviction is

passed in favour of the Petitioner and against the Respondent in respect of one room, one kitchen, one bathroom/WC on the first floor of Property bearing No. 11200-B, First Floor, Mandir Road, Gaushala Marg, Kishan Ganj, Near Arya Samaj Mandir, Delhi, more particularly shown in red colour in the site plan (Exhibit PW1/7) annexed to the eviction petition.

15. Affidavit of undertaking in the above terms shall be filed by the respondents within a period of two weeks from today.

16. Petition is disposed of in the above terms.

17. List on 19.12.2019 for reporting compliance, with regard to filing of the affidavit of undertaking by the Respondents.

18. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

OCTOBER 31, 2019

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