UMESH VERMA

v.

JAI DEVI BHANDARI AND ANR.

MAY 14, 1998.

[G.T. NANAVATI AND S.P. KURDUKAR. JJ.]

Rent Control and Eviction :

Delhi Rent Control Act—1958—S. 14 C Right to Govt. servants to immediately recover their property which has been let out, for their own use—Relates to the two categories of landlords—A Govt. servant who has already retired or one who is to retire within a year and not with the question of who is the actual tenant—The only defence that can be raised by a tenant facing eviction is to question the bona fides, *or that the landlord does not fall into the categories of Govt. servants mentioned in the section— In case of dispute about the actual tenant, eviction petition can be filed by making both, the person whom the landlord thinks is his tenant and the person who is in possession of the property and claims to be the tenant, as parties.—Ss 14 (1) (e), 14 B, 14 D, 25A, B&.C.*

A Govt. servant who had let out his premises, filed an eviction petition before the Rent Controller claiming that he wanted the premises for his residence, on his retirement. The Respondents objected to it on technical grounds *viz* that it was the respondent No 2 who was the tenant and not Respondent No 1, and also that being joint family property, the landlord could not file an eviction petition by himself, and there was no *bona fide* need. The Rent Controller found that both the conditions required under Section 14 C were satisfied but not the third condition since there was a dispute about the landlord tenant relationship. The Revision Petition was dismissed by the High Court on a technical ground, holding that if respondent No. 2 was the tenant, then petition against Respondent No 1 would fail as only respondent No 1 is stated to be the tenant in the petition. Before this Court, it was pointed out on behalf of the appellants that both the respondents had been made parties to the eviction petition.

Allowing the appeal, this Court

HELD : 1. Under Section 14 C right has been conferred upon two

A categories of landlords to recover immediate possession of premises let out by them. The first category consists of landlords who are retired employees of the Central Government or of Delhi administration and the second category consists of the landlords who are employees of the Central Government or the Delhi Administration and who have a period of less than one year preceding the date of their retirement. If such landlords apply within the B specified time they become entitled to recover immediate possession of the premises let out by them if the said premises are required by them for their own residence. This being the nature of the right or the claim of the landlord the scope of defence that can be raised by the tenant becomes restricted. In an application filed under section 14 B or 14 C or 14 D there cannot be any C defence unconnected with on unrelated to the claim of right of the applicant. Therefore, in an application filed under Section 14 C the contention which the tenant can raise is that the applicant is not the type of landlord referred to in section 14 C or that his claim of requirement of the premises is not bona fide. In such an application it would be irrelevant to consider as to who out of the respondents to the application is the tenant so long as all of them D are joined as respondents in that application. The right of the landlord is to recover immediate possession of the premises and, therefore, if he joins as respondent the person who according to him is the tenant and also the person who claims to be the real tenant and in possession of the premises then the dispute as to who is the real tenant loses all its relevance. The Rent Controller E and the High Court failed to consider this aspect and the law laid down in Surjit Singh Kalras Case. Moreover, in view of the fact that Respondent No. 1 who according to the appellant is the tenant and Respondent no 2. who claims to be the tenant are wife and husband respectively and are residing together in the premises which have been let out, they ought not to have been given leave to defend the application on the ground that there was bona fide F and substantial dispute as to who out of the two is the tenant of the landlord. [477-B-G]

Surjit Singh Kalra v. *Union of India,* [1991] 2 SCC, 87, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1155 of 1998.

G From the Judgment and Order dated 26.9.97 of the Delhi High Court in C.R.No. 379 of 1997.

Ranjit Kumar, S. Ray, Ms. Bina Gupta and Ms. Rakhi Roy for the Appellant.

H Salman Khurshid, R.K. Khanna, Ajay Garg and Surya Kant for the

Respondents. A

The Judgment of the Court was delivered by

NANAVATI, J. The correctness of the judgment of the Delhi High Court in Civil Revision Application No. 379 of 1997 is questioned in this appeal. The High Court dismissed the revision application filed by the landlord against the B order passed by the Rent Controller granting leave to the respondents to defend the eviction petition.

The appellant is the owner of the premises which are now in possession of the respondents. As he was to retire from Central Government service on 30.11.96 he filed an eviction petition against both the respondents, in the C Court of the Rent Controller, Delhi under Sections 14(1)(e) and 14C of the Delhi Rent Control Act, 1958 on the ground that he requires the premises bona fide for his residence. In his petition he has stated that Respondent No. 1, Jai Devi is his tenant but as Respondent No.2, her husband, has been claiming that he and not his wife is the tenant of the premises the eviction D petition is filed against both of them to avoid any technical objection. Both the respondents appeared before the Rent Controller and filed separate applications for leave to defend. They have raised a dispute that Respondent No.2 is the tenant and not Respondent No.1. They have also raised a dispute that the premises are a part of the joint family property, and, therefore, the application filed by the petitioner alone is not maintainable and as the petitioner E has been residing in the remaining part of the premises with his brothers his claim that he requires the premises for his residence is not bona fide. The Rent Controller believed that there was a partition amongst the brothers and the appellant is since then the owner of the premises. Thus, he held that, the first condition of Section 14C is satisfied. As it was not disputed that the petitioner F was a Central Government employee and that he was about to retire when he filed the petition, the Rent Controller held that the second ingredient of Section 14C is also satisfied. But taking the view that there is a substantial dispute between the appellant and the respondents as regards the relationship of landlord and tenant, the third ingredient of Section 14C, the respondents are entitled to leave, not only under Section 14(1)(e) but also under Section G 14C of the Act. The Rent Controller, therefore, granted leave to both the respondents to defend the eviction petition.

Aggrieved by that order the appellant filed a revision petition to the High Court under Section 25B of the Act. The High Court held that if the ground pleaded by the respondents is accepted then that would entail dismissal H

A of petition under Section 14C for the reason that if the Respondent No.2, is proved to be the tenant of the premises then the petition against respondent No.1 would fail and it would also fail against Respondent No.2, as in the petition only Respondent No.1 is stated to be the tenant. Taking this view the High Court dismissed the revision application.

B Mr. Ranjit Kumar, learned counsel for the appellant, contended that as the appellant has made both the respondents parties to the eviction petition and has stated therein that according to him Respondent No.1 is the tenant and that Respondent No.2 claims to be the tenant the eviction petition cannot fail against any one of them and, therefore, the High Court has committed an C error of law in taking a contrary view. He further submitted that the High Court ought not to have granted leave to defend on such a technical and frivolous ground. On the other hand Mr. Salman Khurshid, learned counsel appearing for the respondents, supported the judgment of the High Court and also the order passed by the Rent Controller on the ground that the controversy between the parties as to who is the tenant has been rightly regarded as D substantial and a good ground for granting leave.

In order to decide whether the view taken is correct or not we will now refer to the relevant provisions of the Act. Section 14(1) grants protection to the tenants against eviction by providing that no order or decree for the E recovery of possession of any premises shall be made by any court or Rent Controller in favour of the landlord against the tenant. The proviso to that sub-section contains certain grounds on which an order for the recovery of possession can be passed in favour of the landlord. One such ground, contained in clause (g), is bona fide requirement of the landlord of the premises let out for residential purpose for occupation as residence for himself F or for any member of his family dependent on him. Earlier that was the only provision in the Act entitling the landlord to recover possession of residential premises from the tenant on the ground of bona fide requirement. The Act was amended, with effect from December 1, 1975, to provide for an additional ground on which the landlord can recover possession. Section 14A was added to give a right to the landlord who is in occupation of any residential G premises allotted to him by the Central Government or any local authority and is required to vacate the same to recover immediate possession of the premises let out by him. Chapter IIIA containing Sections 25A, 25B and 25C was also inserted in the Act to provide for a summary trial of applications filed on the ground of bona fide requirement under Section 14(1)(e) or under Section 14A H of the Act. The Act was again amended in 1988 for conferring additional

benefits on certain classes of landlords, by inserting therein Sections 14B to 14D. Section 14C with which we are concerned in this case reads as under: A

> "14C. Right to recover immediate possession of premises to accrue to Central Government and Delhi Administration employees. -
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> (1) Where the landlord is a retired employee of the Central Government or of the Delhi Administration, and the premises let out by him are required for his own residence, such employee may, within one year from the date of his retirement or within a period of one year from the date of commencement of the Delhi Rent Control (Amendment) Act, 1988, whichever is later, apply to the Controller for recovering the immediate possession of such premises. B C
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> (2) Where the landlord is an employee of the Central Government or of the Delhi Administration and has a period of less than one year preceding the date of his retirement and the premises let out by him are required by him for his own residence after his retirement, he may, at any time within a period of one year before the date of his retirement apply to the Controller for recovering the immediate possession of such premises. D
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> (3) Where the landlord referred to in sub-section (1) or sub-section (2) has let out more than one premises, it shall be open to him to make an application under that sub-section in respect of only one of the premises chosen by him." E

Though Section 25B(1) was amended along with introduction of Section 14B, 14C and 14D to make the summary procedure applicable to applications made under those sections no corresponding change was made in sub-sections (2) to (5) of Section 25B. Sub-section (5) of Section 25B which provides for granting of leave to the tenant to contest the eviction petition continues to read as under : F

> "25B(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in clause (g) of the proviso to sub-section (1) of Section 14, or under Section 14A." G

The nature of the rights conferred by Sections 14B, 14C and 14D was considered by this Court in *Surjit Singh Kalra* v. *Union of India,* [1991] 2 SCC H

87. After comparing the provisions in Sections 14B to 14D with the provisions contained in Section 14(1)(e) this Court held that the provisions in Section, 14B to 14D are markedly different from Section 14(1)(e). It further held that the classified landlords i.e. landlords referred to under Sections 14B to 14D, have been conferred with certain rights which are different from and independent of the rights under Section 14(1)(e). This Court also rejected the contention that the tenant's right to contest the application for eviction on the grounds specified in Section 14(1)(e) cannot be denied even as against the classified landlords falling under Section 14B to 14D by holding that the acceptance of such a submission would practically obliterate the purpose and object of classification of landlords under Section 14B to 14D who are carved out from the general category of landlords and render the whole exercise of creating special classes of landlords with specified rights to recover immediate possession of the premises let out by them nugatory.

As regards the scope of defence of the tenant for obtaining leave under sub-section (5) of Section 25B this Court has held as under :

> "Under sub-section (5), the tenant could contest the application by obtaining leave with reference to the particular claim in the application of the landlord depending upon whether it is under Section 14-A, 14-B, 14-C or 14-D or under Section 14(1)(e). The tenant cannot be allowed to take up defence under Section 14(1)(e) as against an application under Section 14-B. There cannot be any defence unconnected with or unrelated to the claim or right of the plaintiff or applicant. That would be against our jurisprudence. It is unlikely that the legislature intended the result for which the counsel for the tenant contended. It will be a mechanical interpretation of the enactment defeating its purpose. Such an interpretation has never found favour with the courts which have always adopted a purposive approach to the interpretation of statues. Section 14-B and other allied provisions ought to receive a purposeful construction and sub-section (5) of Section 25-B should be so construed as to implement the object and purpose of Sections 14-B to 14-D. It is the duty of the court to give effect to the intention of the legislature as expressed in Sections 14-B to Section 14-D. .....
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> The tenant of course is entitled to raise all relevant contentions as against the claim of the classified landlords. The fact that there is no reference to the word bona fide requirement in Sections 14-B to 14-D does not absolve the landlord from proving that his requirement is bona fide or the tenant from showing that it is not bona fide. In fact

every claim for eviction against a tenant must be a bona fide one. There is also enough indication in support of this construction from the title of Section 25-B which states "special procedure for the disposal of applications for eviction on the ground of bona fide requirement."

Under Section 14C right has been conferred upon two categories of landlords to recover immediate possession of premises let out by them. The first category consists of landlords who are retired employees of the Central Government or of Delhi Administration and the second category consists of the landlords who are employees of the Central Government or the Delhi Administration and who have a period of less than one year preceding the date of their retirement. If such landlords apply within the specified time they become entitled to recover immediate possession of t he premises let out by them if the said premises are required by them for their own residence. This being the nature of the right or claim of the landlord the scope of defence that can be raised by the tenant becomes restricted. As pointed out by this Court in *Surjit Singh Kalra's case* (supra) in an application filed under Section 14B or 14C or 14D there cannot be any defence unconnected with or unrelated to the claim or right of the applicant. Therefore, in an application flied under Section 14C the contention which the tenant can raise is that the applicant is not the type of landlord referred to in Section 14C or that his claim or requirement of the premises is not bona fide. In such an application it would be irrelevant to consider as to who out of the respondents to the application is the tenant so long as all of them are joined as respondents in that application. The right of the landlord is to recover immediate possession of the premises and, therefore, if he joins as respondent the person who according to him is the tenant and also the person who claims to be the real tenant and in possession of the premises then the dispute as to who is the real tenant loses all its relevance. The Rent Controller and the High Court failed to consider this aspect and the law laid down in *Surjit Singh Kalra's case* (supra). Moreover, in view of the fact that Respondent No.1 who according to the appellant is the tenant and Respondent No. 2 who claims to be the tenant are wife and husband respectively and are residing together in the premises which have been let out, they ought not to have been given leave to defend the application on the ground that there was a bona fide and substantial dispute as to who out of the two is the tenant of the landlord.

We, therefore, allow this appeal. The judgment and order passed by the High Court in Civil Revision Application No. 379 of 1997 and the impugned

A order dated 23.3.1997 passed by the Rent Controller are set aside. It is, however, made clear that it would be open to the respondents to move the Rent Controller on the basis of the applications already filed by them to consider if leave to contest deserves to be granted on the ground that prima facie the requirement of the landlord is not bona fide. If leave is sought by the respondents on such a ground the Rent Controller shall decide whether B to grant leave or not within a period of two months from today. In view of the facts and circumstances of the case there shall be no order as to costs.

I.M.A. Appeal allowed.