

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

**SUBJECT : DELHI RENT CONTROL ACT**

Date of Judgment: 05.12.2011

CM(M) No. 292/2010

JASWINDER PAL SINGH

.....Petitioner

Through: Mr. S.D. Dixit, Advocate.

Versus

RAMINDER SINGH (TITOO)

.....Respondent

Through: Mr. Arun Sukhija, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1. The impugned judgment is dated 06.01.2010 passed by the Additional Rent Control Tribunal (ARCT) dismissing the eviction petition filed by the landlord-Jaswinder Pal Singh under Sections 14(1)(a) (b) & (j) of the Delhi Rent Control Act (DRCA).

2. Record shows that the landlord has filed the present eviction petition under Section 14(1)(a)(b) & (j) of the Delhi Rent Control Act (DRCA). The ARC had dismissed the petition under Section 14(1)(a) & (j) of the DRCA which has been endorsed by the impugned judgment which is not the subject matter of challenge before this court. The courts below had also dismissed the petition under Section 14(1)(b) of the DRCA which is the only subject matter of dispute before this court.

3. Record shows that the present eviction petition filed under Section 14(1)(b) of the DRCA contending that the tenant-Raminder Singh has sub-let these premises in favour of his brother Kuldeep Singh who is now in exclusive possession of the suit premises and is carrying on his business from there; further contention is that Raminder Singh is in fact an employee of M/s. Robin Motors at Shop No. 9/10, S-1, Ajay Enclave near Ajanta

Cinema, Subhash Nagar, New Delhi. To support this stand the parties had examined their respective witnesses. The landlord had produced three witnesses; six witnesses had been produced on behalf of the tenant. Landlord (examined as AW3) has deposed that his tenant Raminder Singh does not sit in the shop anymore; this business is being run by his brother Kuldeep Singh. The tenant to dispute this submission had come into the witness box as RW3; he has admitted that his brother Kuldeep Singh is working alongwith him in the suit premises since the inception of his tenancy but the registration of the licence issued by the MCD for carrying on his business of sale of eggs continues in the name of the original tenant i.e. Raminder Singh; his further deposition was that his brother-in-law Joginder Singh Bajaj is the owner of M/s Robin Motors with whom he has no connection and he is not an employee in the said business.

4. Relevant would it be to state that both the oral and documentary evidence produced by the witnesses had been correctly appreciated by the two courts below. RW4 was the licence clerk from the Health Department, Rohini, who had produced the original licence issued from the Health Department in favour of the tenant namely Raminder Singh which has been exhibited as RW4/A; he has categorically deposed that this licence was issued on 08.02.1995 in the name of Raminder Singh and was renewed up to date. Eviction petition has been filed in the year 1996; this witness had come into the witness box in the year 2004; right from 1995 to 2004, this licence continues to be issued and renewed in the name of the original tenant namely Raminder Singh. RW5 had produced the record from the Municipal Magistrate to show an entry in the municipal register Ex. RW5/A showing that a challan had been issued to Raminder Singh (who was having a shop at 2026/157, Ganesh Pura, Tri Nagar) for which a fine of Rs. 50/- had been imposed upon him.

5. RW6 Joginder Singh Bajaj (brother-in-law of the tenant), the proprietor of M/s Robin Motors had categorically deposed that the document of ownership shows that this business of M/s Robin Motors is being run by him; he had produced the telephone and electricity bills Ex. RW-6/D and Ex. RW6/E as also the original declaration of ownership with regard to his shops and his visiting cards exhibited as RW6/F and RW6/G to substantiate this submission.

6. The fact finding courts below have correctly appreciated this evidence for holding that no case of sub-letting has been made out in favour of the

landlord and he was rightfully not entitled of a decree of eviction on the said ground as original tenant Raminder Singh continues to be in possession of the suit premises.

7. Vehement submission of the learned counsel for the petitioner is that the sub-tenant i.e. Kuldeep Singh continues to be in possession of the suit premises is not borne out from what has been noted and discussed (supra). Kuldeep Singh was only working with his brother; documentary evidence produced by RW6 shows that the business was being run by him and licence is also in his name. There is no evidence to show that Kuldeep Singh was in exclusive possession of the shop; both the fact find courts had correctly noted that a case of sub-letting, assignment, parting of the whole or part of the premises is not made out.

8. This court is sitting in its superintendence under Article 227 of the Constitution; it is not an appellate forum; interference is called for only if there is a manifest error or an illegality which has resulted in grave miscarriage of justice which is clearly not so in the instant petition.

9. Petition is without any merit; impugned judgment calls for no interference.

10. Petition is dismissed.

Sd/-  
INDERMEET KAUR, J