

IN THE HIGH COURT OF DELHI AT NEW DELHI
SUBJECT : DELHI RENT CONTROL ACT

Date of Judgment: 13.01.2012

R.C.R. 15/2012 & CM Nos. 692-693/2012 & Cav. No. 15/2012

NATIONAL DISTRIBUTOR COMPANY Petitioner.
Through: Mr. Abhisehek Kumar, Adv.

Versus

SANT LAL GODHA & SONS CHARITY TRUSTRespondent
Through: Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1. Order impugned before this Court is the order dated 21.09.2011 vide which the application filed by the tenant in a pending eviction petition under Section 14 (1)(e) of the Delhi Rent Control Act (hereinafter referred to as the 'DRCA') had been dismissed.

2. Record shows that the present eviction petition has been filed by the landlord which was a trust M/s Santlal Godha & Sons Charity Trust through its three trustees under Section 14 (1)(e) of the DRCA. The grounds of eviction as contained in para 18-A reads herein as under:-

“That the petitioner/Trust is the owner of suit property No.1318, BAIDWARA STREET, DELHI-110006 which has been let out to the respondent for Godown purpose. The same is required bonafide by the petitioner for themselves as well as carrying on further activities of charitable trust as the same has been founded by the predecessors of the trustees of the petitioner as the petitioner has no other accommodation/suitable premises for carrying out such activities of the trust because the accommodation already available with them is very small and insufficient to meet the requirement of the petitioner and to carry on the activities of the charitable trust. The suit premises is required by the

petitioner for their bonafide used to accommodate their saints, guests during festivals as well as required to keep their accounts of the office as there is only one room available with the petitioner which is shown green in the site plan filed herewith, where otherwise precious worships articles of the temple like CHHATAR, CHANDUA SIL etc. are lying which are required to perform PUJA during festival of Diwali, Holi as well as in the festival of DASLAKHNI. Even the old PUJARI of adjoining temple, she Shrichand living on the first floor is being accommodated to live in a portion of the said room shown green in the site plan because of his old age between 70-75 years as he is not in position to climb up stair who is other suffering from Cancer.”

3. The trust deed filed along with the eviction petition has also been perused including its object clause. This document clearly evidences that this is a private trust of the family of Mr. Mahendra Kumar Godha; three trustees through whom this eviction petition has filed are all members of the family of Mahendra Kumar Godha.

4. The only contention which has been urged before this Court today is that the provisions of Section 22 of the DRCA is applicable and this being a special provision for recovery of possession in certain cases which include recovery of possession of properties by a public institution or a charitable trust which is so in this case; the provision of Section 14 (1)(e) of the DRCA could not have been adhered to.

5. The trust deed and object clause contained therein clearly show that this is a private trust and this deed is thus outside the purview of Section 22 and this has been rightly noted by the trial court in the impugned order. The explanation of Section 22 is relevant; a private trust is outside the purview of Section 22. Unless and until a fact finding by a court below is perverse, the powers of this Court to interfere in review or a reasoned fact finding are curtailed. The document i.e. trust deed had been correctly construed by the trial Court and held to be a private trust; provisions of Section 22 of the DRCA are clearly inapplicable.

6. The eviction petition had also averred that their pujari who is cancer patient is living on the first floor and the present accommodation with the tenant which is on the ground floor is required bonafide by him as he is unable to climb stairs. There is no dispute to this factual submission.

7. As noted supra, the only argument urged today is on the applicability of Section 22 of the DRCA and the ouster of the provision under Section 14 (1)(e) read with Section 25-B of the DRCA on this score. The impugned order holding that the provisions of Section 22 are inapplicable suffers from no infirmity. The application for leave to defend had mentioned other alleged triable issues but the learned counsel for the petitioner has restricted his argument only on the applicability of Section 22 and this submission having no merit is rejected.

8. The impugned order decreeing the eviction petition filed by the landlord thus suffers from no infirmity. Petition is without any merit.

9. Dismissed.

Sd/-
INDERMEET KAUR, J