

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : DELHI RENT CONTROL ACT

RC Rev. 3/2009

Date of Decision : 12th January,2009

RAJESH BANSAL Petitioner
Through Mr. Rajat Ahuja, Advocate

Versus

SHRI PRITAM SINGH Respondent
Through None

J U D G M E N T

MANMOHAN, J: (Oral)

CM No. 211/2009

1. Exemption allowed subject to all just exceptions.

RC.REV. 3/2009

2. The present petition has been filed under Section 25-B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as 'the Act'), against the order dated 6.10.2008 whereby the petition under Section 14 (1)(e) read with Section 25-B of the Act was rejected on the ground that the same was barred by Section 14(6) of the said Act.

3. Learned counsel for the petitioner submits that the bar of Section 14(6) is not attracted as in the present case the petitioner after purchasing the property on 20.7.2005 had leased it on 24.3.2006 by way of rent agreement.

4. Section 14(6) of the Act reads as under:- ‘14. Protection of tenant against eviction. xxx xxx xxx 6)’ Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1), on the ground specified in clause (e) of the proviso thereto, unless a period of five years have elapsed from the date of the acquisition.’

5. This Court in the case of Mrs. Ram Devi and anr. Vs. Shri Mool Chand Bhatia reported in 1998(1) RCR 210 has held as under:- ‘5..’ As a matter of fact the reason given for withdrawing the previous eviction petition was not legally valid because the petitioner had inducted the respondent as tenant after purchasing the property and provisions of Section 14(6) which bars bringing of eviction petition on the ground of bona fide requirement within five years of the purchase of the property were not application to the petitioners. (See Shiv Dutt v. Prem Kumar, 196, RCR 744 and V.N. Sarin v. Maj. Ajit Kumar, 1966 DLT 32)’. 6. Further, this Court in the case of Shiv Dutt Sharma v. Prem Kumar Bhatia, reported in 5(1969) DLT 394 has held as under:- ‘5. If it is argued that the word ‘landlord’ in Sub-section (6) of Section 14 does not require that he should have become a landlord of the premises by virtue of the acquisition of the premises, then according to this argument the word ‘landlord’ is not used in Sub-section (6) of Section 14 in the sense in which it is defined in Section 2 (e). Strong reasons have to be given why the word ‘landlord’ should not be construed in Section 14 (6) as it is defined in Section 2 (e). No such reasons are forthcoming. On the other hand, the very purpose of enacting Section 14(6) would be defeated if it is applied to a person merely because he has acquired the premises by transfer even though he did not become the landlord thereof by virtue of such transfer. There is no reason why a person who has acquired the premises by transfer from somebody else, but who has let out the premises to a tenant after the acquisition by transfer, should be prevented from evicting the tenant for a period of five years. A person who has built the premises himself and then let them out would not be restricted from evicting the tenant even within five years. This would mean that the Act would treat these two classes of persons differently. If this meaning were given to Section 14(6) it would be open to the objection of being unconstitutional as being contrary to Article 14 of the Constitution. For, there is no valid reason why a person who buys the premises should be treated differently from a person who builds them in respect of their right to evict a tenant, Such a construction of Section 14(6) would not, therefore, be permissible.

6. The Supreme Court has, therefore, placed it beyond doubt that Section 14(6) applies only when a person becomes a landlord of the premises in question by virtue of the transfer itself. It does not, therefore, apply to the present case inasmuch as Prem Kumar had acquired the premises by transfer before he became the landlord for the first time when he let them out to Shiv Dutt.

7. Consequently, in the opinion of this Court, the bar of Section 14(6) of the Act will only apply to pre existing tenancies. Therefore Additional Rent Controller has erred in dismissing the present eviction petition as barred by Section 14(6) of the Act.

8. The impugned order dated 6th October, 2008 is set aside and the eviction petition is restored back to its original file. Let this petition be listed for further hearing, in accordance with law, on 4th February, 2009. It is clarified that this order is being passed ex-parte as even the Additional Rent Controller had dismissed the eviction petition without notice to the respondent.

9. List on 4th February, 2009 before the Additional Rent Controller.

10. Accordingly, the present petition is disposed of.

11. Copy of the order be given dasti.

Sd/-
MANMOHAN, J

