

**IN THE COURT OF SHEFALI BARNALA TANDON,
ADMINISTRATIVE CIVIL JUDGE- CUM- ADDITIONAL RENT
CONTROLLER (CENTRAL) : DELHI**

E-883/19

In the matter of :-

Smt. Usha Devi,
W/o. Late Sh. Pappu Ram,
R/o. XV-9022-9028 & 9078,
Multani Dhanda, Paharganj,
New Delhi-110055.

.....Petitioner

Versus

Smt. Durga Devi,
W/o. Sh. Ram Pal,
R/o. 9939, Gali No. 4, Ground Floor,
Multani Dhanda, Paharganj,
New Delhi-110055.

.....Respondent

Date of Institution : 25.11.2019

Date of order when reserved : 29.09.2020

Date of order when announced : 30.09.2020

J U D G M E N T

1. Vide this judgment, the undersigned shall dispose off the present eviction petition filed by the petitioner against the respondent/tenant U/s 14 (1) (e) of the Delhi Rent Control Act, 1958 (hereinafter referred to as '**Act**'), in respect of one room at Ground floor of property bearing No. 9939, Gali No. 4, Multani Dhanda, Paharganj, New Delhi which is the part of property bearing Municipal No. 9938-42, Gali No. 4, Multani Dhanda, Paharganj, New Delhi (hereinafter referred to as '**tenanted premises**'), as shown in red colour in the site plan annexed alongwith the petition, which is in

possession of the respondent Smt. Durga Devi, at the monthly rent of Rs.30/-.

2. The brief facts of the case, as mentioned in the petition by the petitioner is that the Property bearing No. 9938-42, Gali No. 4, Multani Dhanda, Paharganj, New Delhi was owned by her father-in-law, Sh. Babu Ram. After his death, the husband of the petitioner namely Sh. Pappu Ram became the owner of the property including the tenanted portion which is a part of the said property. However, the husband of the petitioner Sh. Pappu Ram has also died intestate on 20.12.2015, leaving behind besides her, four daughters and two sons, who all have relinquished their rights in the said property, except Ms. Deepa as at the time of execution of relinquishment deed her Aadhar Card was not available, by way of relinquishment deed dated 05.10.2016. By way of said relinquishment deed, the petitioner became the absolute owner of the '*tenanted premises*'. The '*tenanted premises*' were let out to the respondent for residential purposes somewhere in the year 1991. The premises in question are required *bonafide* by the petitioner for herself and also for her family members.

3. Summons in the prescribed form under Schedule III of DRC Act, 1958 were served upon the respondent by way of affixation on 25.02.2020, however, the respondent did not file any application for leave to defend within the prescribed period.

4. The undersigned has heard the arguments adduced on behalf of the petitioner and perused the record carefully.

5. Now let's discuss the law on the point first. Reliance has been placed by this Court upon judgment delivered in case titled as "***Prithipal Singh Vs. Satpal Singh (dead) through LRs***" [1 (2010) SLT 116] wherein, the issue of filing application for leave to defend has been discussed in detail in petitions filed on bonafide requirement by the landlord.

6. In view of the case law on the point and as per Sec. 25(4)(b) of D.R.C. Act, if leave to defend application is not filed within 15 days from the date of service, then the statement made by the landlord in the eviction petition is deemed to be admitted by the tenant and the applicant/petitioner shall be entitled to an order of eviction. Further, in view of law laid down by the Hon'ble Supreme Court, the court of ARC do not have power to condone the delay in filing the leave to defend application and cannot go into the merits of the reason stated for not filing the present leave to defend application within the period of 15 days, howsoever genuine or correct the same may be.

7. In the present matter, in order to prove ownership, the petitioner has filed on record the Relinquishment Deed in her favour executed by her children of petitioner, except one daughter namely Deepa. However, it is a well settled law that one of the co-owner can file the eviction petition. The petitioner also filed the copies of certain rent receipts to show her landlady ship against the respondent qua the '*tenanted premises*'. The tenanted premises have been shown in red in the site plan filed alongwith the petition, which is in possession of the Smt. Durga Devi/respondent and it is stated by the petitioner that she needs the '*tenanted premises*' for herself and also for her family members for residence due to paucity

of space. It is well settled preposition of law that the bonafide requirement put forth by the petitioner is presumed to be genuine unless rebutted. Further, the application for leave to contest has not been filed at all, hence, the claim/prayer of landlord/ petitioner goes unrebutted. In view of the same, as per the provisions of DRC Act, the averments made in the petition are deemed to be admitted by the respondent.

8. With his background, considering the present facts & circumstances of the present matter considering the bonafide requirement as put forth by the petitioner, which remains unchallenged/ unrebutted, an eviction order is passed U/s 14 (1) (e) of DRC Act in favour of the petitioner and against the respondent in respect of one room at Ground floor of property bearing No. 9939, Gali No. 4, Multani Dhanda, Paharganj, New Delhi which is the part of property bearing Municipal No. 9938-42, Gali No. 4, Multani Dhanda, Paharganj, New Delhi (hereinafter referred to as '*tenanted premises*'), as shown in red colour in the site plan annexed alongwith the petition which is in possession of respondent/Smt. Durga Devi. However, this order shall not be executable before the expiry of six months from the date of this order as provided U/s 14 (7) of DRC Act. Parties to bear their own costs. File be consigned to Record Room.

Announced through video
Conferencing
on 30.09.2020

(SHEFALI BARNALA TANDON)
Administrative Civil Judge -cum-
Additional Rent Controller (Central), Delhi
(This judgment contains 4 pages in total)