

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

E-477598/16

In the matter of :-

Sh. Mandhir Sachdeva
S/o Late Sh. S.S. Sachdeva
R/o R-875, Ground Floor,
New Rajinder Nagar,
New Delhi.

.....Petitioner/ Landlord

Versus

Smt. Kushal Anand
W/o Late Sh. Surinder Nath Anand
R/o K-228, Kariappa Marg,
Sainik Farm, New Delhi.

.....Respondent/ Tenant

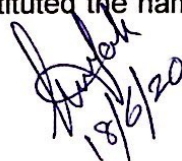
Date of Institution : 15.03.2014
Date of order when reserved : 04.06.2020
Date of order when announced : 18.06.2020 (through VC due to
COVID-19)

J U D G M E N T :

1. Vide this judgment, the undersigned shall decide the petition filed under Section 14 (1) (d) & (h) of the Delhi Rent Control Act, 1958 (hereinafter referred to as DRC Act), by the petitioner/landlord seeking eviction of the respondent/tenant from the premises i.e. entire first floor, consisting of two rooms, one store room alongwith kitchen, toilet and bathroom forming part of the property bearing No.R-875, New Rajinder Nagar, New Delhi (hereinafter referred to as the 'tenanted premises'), as shown in red colour in the site plan attached with the petition.

2. The brief facts of the case, as narrated in the petition are that the property bearing No.R-875, New Rajinder Nagar, New Delhi was allotted to the grand-father of the petitioner namely Late Sh. Jai Singh Sachdeva by the Ministry of Rehabilitation vide allotment letter dated 10.04.1954 and conveyance deed qua the same was executed in his favour on 18.04.1961. However after his death on 27.12.1968, the property in question had devolved upon his legal heirs namely Sh.Jagdish Sachdeva(Son), Smt.Pushpawati (daughter-in-law), Smt. Shanti Devi(daughter), Smt.Sushila Roy Choudhary (daughter) & Sh. S.S.Sachdeva (son). The office of the L&DO substituted the names of his surviving legal

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heirs and executed a lease deed on 09.07.1984 incorporating their names, which was registered on 23.02.1985. That, afterwards the petitioner became the owner of the entire suit property as follows:

(a) That by virtue of the aforesaid registered lease deed, one of the above said LR of the erstwhile owner, namely Sh. Jagdish Singh Sachdeva became the owner of 1/6 undivided share in the premises, however he died on 25.02.2003 leaving behind his legal heirs, who jointly & collectively relinquished their 1/6th undivided share in favour of the petitioner for consideration vide release deed dated **04.07.2008**, which was duly registered in the office of Sub-Registrar-III, New Delhi.

(b) Similarly, after the death of the other Legal heir namely Smt. Pushpa Sachdeva, her surviving LRs also relinquished their respective shares in favour of the petitioner vide registered relinquishment deed dated **05.08.2008**.

(c) It is further stated that Smt. Shanti Devi, who also had 1/6th undivided share in the property died on 20.06.1989 and her surviving legal heirs also relinquished their rights in favour of the petitioner vide registered release deed dated **22.08.2008** for consideration.

(d) Further, after the death of Smt. Sushila Roy Chaudhary her surviving LRs also relinquished their respective share in favour of the petitioner vide release deed dated **22.08.2008**.

(e) Similarly, the surviving LR's of Sh. S.S.Sachdeva, who had 2/6th undivided share in the property in question and died on 20-08-1994, released their respective shares in favour of the petitioner vide registered relinquishment deed dated **27.03.2009**.

Accordingly, by virtue of the aforesaid relinquishment/release deeds the petitioner became the exclusive and absolute owner of the entire premises bearing NO. R-875, New Rajinder Nagar, New Delhi(hereinafter referred to the property in question/suit property). **Thereafter, the L&DO Office considering the aforesaid relinquishment/ release deeds in favour of the petitioner, substituted the name of the petitioner exclusively vide substitution letter dated 25.02.2011 and conveyance deed dated 15.11.2011.**

3. That the erstwhile allottee/ owner Sh. Jai Singh Sachdeva, during his lifetime had let out the 'tenanted premises' for residential purpose to the husband of the respondent Sh. Surinder Nath Anand (hereinafter referred as the original tenant) in the year 1960 at rent of Rs 175 per month excluding electricity and water charges, which were having common connections but later on upon the request of the original tenant a separate

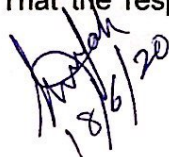
electricity connection was obtained for the '*tenanted premises*' vide old no. K714300471 AND NEW K NO.114047330087. However, the lease of the original tenant was terminated w.e.f 31.01.1970 by the predecessor-in-interest of the petitioner namely Sh. Jagdish Singh Sachdeva vide legal notice dated 06-01-1970, but he did not vacate the premises. That thereafter, the original tenant Sh. Surinder Nath Anand acquired a property bearing No.A-42, Kailash Colony, New Delhi by virtue of a sale deed dated 05.08.1972 vide document No.5381 in Addl. Book No.1, vol. No.8957 on pages No.37 to 44 and shifted in the same in the year 1974. The original tenant died on 12.12.1992 and his spouse, who is the present respondent succeeded to the tenanted premises by virtue of section 2(1)(iii) Explanation 1(a) of the DRC Act. **The electricity connection of the tenanted premises is lying disconnected since 19.10.2003, since no one is residing there.** The petitioner after acquiring the property in question approached the respondent in the month of December, 2011 to handover the peaceful vacant possession of the tenanted premises, as she was not using the same for last many years for residential purpose and it was lying under lock and key, but she did not do so. Hence, she is liable to be evicted as per the law under section 14(1)(d).

4. That apart from the property bearing No. A-42, Kailash Colony, New Delhi the *original tenant* acquired numerous other properties as follows:

- a) A plot 1400 sq. yards NIIT Faridabad, Fruit Garden.
- b) A plot AC-42, in Green Field measuring 356 sq. yards.
- c) A-902 & 903, Kanti Apartment, Mount Marry Road, Bandra, Bombay.
- d) Shop X-9, Patel Nagar, New Delhi.
- e) H.No.I/33 & I/34, Old Rajinder Nagar, New Delhi.
- f) H.No.J-366, New Rajinder Nagar, New Delhi

Out of the aforesaid properties, the property bearing H.No.1/33 and 1/34, Old Rajinder Nagar, New Delhi and H.No.J-366, New Rajinder Nagar, New Delhi are also residential in nature. Further, the respondent Smt. Kushal Anand has also acquired the premises bearing No.K-228, Sainik Farm, New Delhi, where she is residing with her two daughters namely Ms. Suparna and Ms. Shivani Anand. The respondent along with other LRs of the original tenant sold the property bearing no. A-42, Kailash Colony, New Delhi by virtue of sale deed dated 26.04.2000, wherein the address of K-228, Sainik Farms, New Delhi has been mentioned as residence. Even the respondent is having election card no HZT1557990 from the said address as per the electoral roll 2013 of assembly Constituency No.48(Ambedkar Nagar) Part no. 140. That the respondent has not been

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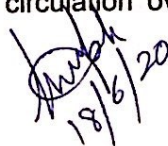
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paying any rent of the 'tenanted premises' since 1974. In the view of above averments, the petitioner has prayed for order of eviction of respondent from the 'tenanted premises' under Section 14 (1) (d) & (h) of the D.R.C. Act.

5. Summons were sent for service upon the respondent by way of ordinary post as well as registered A.D., however the same were received back unserved with the report of "left the given address". Thereafter, on application of the petitioner, summons were ordered to be served through affixation on the 'tenanted premises' as well as upon address K-228, Sainik Farms, New Delhi mentioned in the petition. The respondent was duly served and tendered appearance thereafter.

6. Written statement was filed on behalf of the respondent, wherein the averments made by the petitioner are denied in general. It has been stated in the written statement that the cause of action has never been accrued in favour of the petitioner and against the respondent, as the entire chain of ownership of the property in question as claimed by the petitioner by virtue of relinquishment deeds is illegal, incorrect, invalid and cannot be acted upon. The petitioner is not the owner of the 'tenanted premises', hence the present petition is liable to be rejected under order 7 rule 11 CPC with heavy cost. However, it is specifically admitted that Sh. Jai Singh Sachdeva was the owner of the property in question vide conveyance deed executed by the Ministry of Rehabilitation, Govt. of India and after his death the property devolved upon his legal heirs, but it is contended that contrary to the mandate of Hindu succession act, an oral agreement was arrived amongst all the co-sharers in the month of January 1970 according to which the wife of Shri Jai Singh Sachdeva bequeathed her 1/6 part of share in the property in question in favour of one of his sons namely Shri S.S.Sachdeva by virtue of Will dated 23 September 1971. Therefore, after the demise of Smt. Shiva Devi, Sh. S.S.Sachdeva became the owner of 2/6th part of share of the entire property. Thereafter, a partition deed dated 15 October 1977 was executed and registered amongst the surviving legal heirs. After the demise of all the aforesaid Legal Heirs, the property in question devolved upon their respective LR's, who couldn't have relinquished their share in favour of the petitioner. Hence, the release/ relinquishment deeds are false and fabricated and this Court doesn't have jurisdiction to decide the question of ownership of the petitioner, which is in dispute. The landlord-tenant relationship is denied and disputed by stating that the respondent Smt. Kushal Anand even got circulated the public notice in *Jansatta* Hindi Newspaper & *Indian Express* English Newspaper, both dated 19.04.2014 having wider circulation over Delhi and New Delhi

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areas mentioning that she has become the tenant of the 'tenanted premises' after the death of her husband Sh. Surinder Kumar Anand, the original tenant and anybody claiming to be the owner/ landlord of the 'tenanted premises' may collect the rent from her. Despite the same no one came to claim the title over the property and collect rent. Even the site plan of the 'tenanted premises' is stated to be wrong and the petition is bad for mis-joinder and non-joinder of necessary parties. That the particulars of various residential and commercial properties mentioned by the petitioner in paras No. 18 (a) (XIV & XV) of the petition are absolutely false and fabricated, as none of these properties is owned and possessed by the respondent for her residential purposes. The petition is even time barred. That respondent has continuously been residing in the 'tenanted premises' and still holds election I-card no SMM2623949 dated 01.01.2014. The relinquishment deeds of the LRs in favour of the petitioner are false and fabricated. That the property bearing No. A-42, Kailash Colony, New Delhi was purchased by her husband for his business/ commercial purposes only and the same has been sold out long back. The property bearing no K-228, Sainik Farms, New Delhi exclusively owned, possessed and enjoyed by her daughter Ms. Suparna Anand, however she frequently visits her and stays there for medical attention.

7. Replication to the written statement of the respondents was filed by the petitioner. The petitioner has denied the allegations of the respondents and has reiterated the same facts as averred in the plaint. However, an application under order 7 rule 14 read with section 151 CRPC was filed on behalf of petitioner to take on record additional documents filed along with the replication, which was allowed by the court vide order dated 21.05.2015 and the following documents were taken on record :

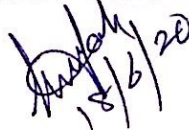
1) Copy of house tax receipt retrieved from MCD house tax portal through internet pertaining to the residential premises bearing number K-228 Sainik Farm, New Delhi.

2) Copy of electricity bill for the period 17 April 2014 to 16 May 2014 pertaining to electricity connection bearing CA No 100167411 in the name of the respondent Mrs Kaushal Anand at premises bearing number K-228 Sainik Farms, New Delhi.

3) Certified copy of sale deed dated 16 November 1970 pertaining to property bearing number 1/33 Old Rajender Nagar, New Delhi having registration number 7004 in additional book number one, volume 2521 on page number 47 to 54th

4) Certified copy of sale deed dated 29 July 1987 pertaining to property bearing number 1/34 Old Rajender Nagar, New Delhi having registration number 6256 in additional book number one, volume number 5901 on page number 1 to 6

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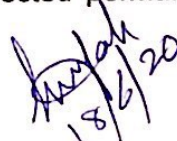


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5) Certified copy of registered release deed dated 21 April 1994 pertaining to property bearing number J-366 New Rajender Nagar, New Delhi having registration number 2782 in additional book number one, volume number 8245 on page number 66 to 168

8. In order to substantiate the case, the petitioner namely Sh. Mandhir Sachdeva has been examined as PW-1, who tendered his evidence by way of affidavit proved as **Ex.PW-1/A**, wherein he re-iterated the averments made in the petition and relied upon documents i.e. Ex.PW-1/1 to Ex.PW-1/19. **Ex.PW-1/1** is the **copy of Allotment Letter** dated 10.08.1954 and **Ex.PW-1/2** is the **deed of conveyance** of the year 1961 in favour of the original allottee Sh. Jai Singh Sachdeva. The petitioner also relied upon document proved as **Ex.PW-1/3**, which is the **site plan** of tenanted premises and **legal notice dated 6th of January 1970** served upon the original tenant for termination of tenancy as **Ex.PW-1/4** & it's AD card as **Ex.PW-1/5**. PW1 also relied upon the copy of lease deed dated 9th of July 1984 substituting the name of the surviving legal heirs of the original allottee late Shri Jay Singh Sachdeva as **Ex.PW-1/6**. He also proved the registered release deed executed in his favour which **Ex.PW-1/7 to Ex.PW-1/11**. The copy of substitution letter dated 23th February 2011 is Ex.PW-1/12, by virtue of which he became the exclusive owner of the property in question along with the conveyance deed dated 15th November 2011 as Ex. PW-1/13. He also relied upon the photocopy of certified copy of Sale Deed dated 16th November 1970 of the property acquired by the original tenant bearing number 1/33 Old Rajender Nagar, New Delhi and photocopy of certified copy of Sale Deed dated 29th July 1987 of property bearing number 1/34 Old Rajender Nagar, New Delhi acquired by the original tenant as as **MARK-X7** (though mentioned in the affidavit as exhibit PW-1/14 & exhibit PW1-/15) , photocopy of certified copy of the Lease Deed dated 21st April 1994 of the property bearing number J-366 New Rajender Nagar, New Delhi as **Ex.PW-1/16**. He even relied upon internet generated copy of the property tax returns for the assessment year 2014-15, which was stated to be filed online by the respondent for the property bearing number K-228 Sainik Farms, New Delhi wherein she has made declaration that she owns the aforesaid property along with built up area and the electricity connection is also installed in her name. The copy of property tax return and electricity bill are exhibited as **Ex. PW-1/17 and Ex.PW-1/18**. The petitioner/PW1 also relied and proved the disconnection report of the electricity connection of CA number 114041200787, which stood in the name of the original tenant Late Shri Surendra Nath Anand and the same is stated to be lying disconnected permanently since 19 October

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2003, as **Ex.PW1/19**. It is pertinent to mention here that though above said documents are exhibits by the petitioner during evidence, however exhibits are not put on the same inadvertently by the predecessor court but they are part of record.

During his cross-examination, PW-1 admitted that his grandfather inducted the original tenant Late Shri Surendra Nath Ananth in the tenanted premises in the year 1960 for residential purposes. He also admitted that his grandfather late Shri Jai Singh Sachdeva expired interstate on 27th December 1968 and the original tenant expired on 12.12.1992 leaving behind his legal heirs ie the present respondent and their children. He also admitted that late Shri Jai Singh Sachdeva expired leaving behind his wife Mrs Shiva Devi, sons Mr Jagdish Singh Sachdev, Shri Tara Chand Sachdeva, Shri S.S.Sachdeva and two daughters namely Mrs Shanti and Sushila Roy Choudhury. He also admitted that after demise of Shri Jai Singh Sachdeva the entire suit property bearing number R-875 New Rajender Nagar, New Delhi devolved upon the aforesaid six legal heirs and Mrs Shiva Devi vide registered Will dated 23rd September 1971 bequeathed her 1/6th share in the suit property to his father late Shri S.S.Sachdeva hence his father became the owner of 2/6th share of the entire property. However, he denied the suggestion that all the surviving legal heirs could not relinquish their share in the entire property in view of partition deed Mark PW1/RA. He also denied that the documents qua his ownership are invalid and forged, however admittedly he did not mention about the partition deed in the petition, as he has filed the present petition solely on the basis of conveyance deed exhibit PW 1/2 and PW1/3.

He further deposed that after the death of Sh. Jai Singh Sachdeva from 27.12.1968 onwards till 05.07.2014 i.e. filing of the present eviction petition, his ancestors used to demand the rent from original tenant late Sh. Surender Nath Anand and later on from his wife Smt. Kushal Anand, the present respondent but they did not pay any rental amount. He failed to have any knowledge regarding any legal notice sent to the tenant by his ancestors demanding the rental amount for the aforesaid period and that he is only relying upon the legal notice Ex. PW1/4. He deposed that since 15.11.2011, he has neither served any legal notice upon the respondent claiming his ownership qua the 'tenanted premises' nor demanding any rental amount at any address as, she was not residing in the same. He volunteered that after 15 November 2011 he has paid house tax to MCD up to date. He even deposed that he had shown all his documents in respect of ownership of the property to the respondent after circulation on 19th April April 2014 in the newspapers namely Jan Satta and Indian express and requested her only to pay the rent in respect of tenanted premises. He admitted that in column No. 5 of the present petition that he had leased out

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the entire 'tenanted premises' to late Sh. Surender Nath Anand in the year 1960 has been wrongly mentioned. He admitted that he does not possess the documents i.e. Ex. PW-1/4, legal notice dated 06.01.1970 & Ex. PW-1/5 i.e. the AD Card in originals and without having originals, he exhibited the same. He further stated that he has not got decided the ownership of the 'tenanted premises' from any competent court of law till date. He admitted that he has never verified the correctness of the electoral roll of the respondent filed by him on record pertaining to the address of K-228, Sainik Farm, New Delhi. He admitted that the election ID card in name of respondent was issued by the election commission of Delhi on 1 August 2013 at the address of the 'tenanted premises'. He also admitted that the respondent had applied for fresh connection of electricity after its disconnection into rented premises in the year 2013 and 2014. He admitted that the certified copies of documents Ex. PW-1/14 to Ex. PW-1/17 has been exhibited by him without original, considering them as public documents.

No other witness has been examined on behalf of the petitioner and petitioner's evidence was closed vide order dated 18.04.2018.

9. In rebuttal, respondent namely Smt. Kushal Anand got examined four witnesses in total including herself as RW-1.

(i) **RW-1 Smt. Kushal Anand** tendered her evidence by way of affidavit, which is proved as **Ex.RW1/1** and relied upon documents as **Ex.RW1/A to RW1/G** i.e. copy of newspaper containing public notice regarding claim of rent, copy of election I card of respondent Kaushal Anand, copy of passbook of account of respondent, copy of complaint with PS New Rajinder Nagar, Delhi, copy of Adhaar Card, election I card & passport of Suparna Anand respectively and documents marked as Mark RW-1/X-1 to RW-1/X-11.

During her cross examination, she admitted that the 'tenanted premises' i.e. first floor of property bearing No. R-875, New Rajinder Nagar, Delhi were given on rent to her husband Late Sh. Surender Nath Anand. She further admitted that her husband acquired property bearing No. A-42, Kailash Colony, New Delhi, however, it is stated that it was used as office of M/s. Prudential Builders, though Kailash Colony is a residential colony. She failed to tell if the ration card of her entire family was of address A-42, Kailash Colony, Delhi, however, she admitted that the said property was sold by her and her children, as per the settlement in the partition suit before Hon'ble High Court to the third-party. She admitted that the aforesaid premises A-42, Kailash Colony, were acquired by her husband after taking tenanted premises on rent, however, she volunteered that the business of her

husband was to sell/purchase of the properties. The digital record of case titled as Kushal Anand Vs. Sanjay Anand bearing No. CS (OS) 243/96 and the said record has been brought by JJ Sh. Nikhil Kumar Kaushal from High Court of Delhi alongwith certificate U/s. 65 of Indian Evidence Act, were taken on record and proved the same as exhibited as Ex RW-1/X-4 to Ex.RW-1/X-6. She denied the certified copy of sale deed dated 12.11.1970 executed by Sh. Manohar Lal Bhatia in her favour in respect of property bearing No. 1/33, Old Rajinder Nagar, Delhi. She also denied to have knowledge about purchase of property bearing No.1/34, Old Rajinder Nagar, Delhi, however it is stated that her husband might have purchased the property bearing No. 1/33 & 1/34, Old Rajinder Nagar, Delhi. She failed to remember when the electricity connection was got disconnected in the tenanted premises. She denied to have voter ID of address bearing No. K-228, Sainik Farms, Delhi, when electoral roll was put to her but stated that her daughter insisted to live with her and due to her daughter's matrimonial disputes, she is in a habit of creating such documents. She also admitted that she filed two cases of installation of electricity in the premises in question and the petitioner was made a party.

She further deposed that the she has been residing continuously in the matrimonial home of her elder daughter. She admitted that Kailash colony is a residential colony, however she denied the suggestion that in her petition before the Hon'ble High Court of Delhi, which she has filed against her son she averred in the plaint that M/s. Prudential Builders were having the office in basement and the other portion was being used as residence. It is stated that no release deed of property bearing No. J-366, New Rajinder Nagar, was executed in her favour by her children, however, she admits that the signature of her son at point A and signature of daughter at point B on Ex. RW-1/X-1. She admitted the filing of suits bearing number CS(OS) 243/96 titled as Kaushal Anand versus Sanjay Anand and CS(OS) 295/ 96 titled as Kaushal Anand versus Sanjay Anand, hence proved as RW-1/X5 and RW-1/X6. She admitted that she got open the account in PNB after filing the present suit. It is also stated that the electricity in the tenanted premises was disconnected long ago, thereafter, they had taken electricity supply from the person living on the second floor and presently they are using electricity through generator and Inverter.

(ii) **RW-2 Sh. Rajender Singh, Record Attendant, Department of Delhi Archives (Delhi Admn.)** brought the summoned record with respect of the Will dated 23.09.1971 registered vide document No.572, Volume No.36, pages 146 to 147 registered on

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24.09.1971, executed by Smt. Shiv Devi in favour of Sh. Santok Singh Sachdeva. He proved the copy of the said Will as **Ex.PW2/A**.

He also brought the summoned record in respect of partition deed dated 15.10.1997 registered vide registration No.3697, additional book No.1, Volume No.3858, pages 97-100, registered on 24.10.1997 executed among Sh. Santokh Singh Sachdeva, Sh. Jagdish Singh, Smt. Pushpawati, Smt. Shanti Devi and Smt. Sushila Roy Chaudhary. He proved the photocopy of the said partition deed as **Ex.RW2/B**.

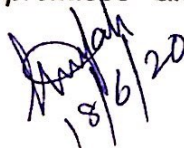
The said witness was not cross-examined despite opportunity given to the petitioner.

(iii) **RW-3 Sh. Ramesh Chand Gangwal (Caretaker of the Respondent)** tendered his evidence by way of affidavit, which is **Ex.RW3/1** and relied upon document **Ex.RW3/A** i.e. the summon received by him on 05.07.2014 for appearing in the Court on 14.08.2014.

During his cross-examination, he stated that he was working with Delhi Vidhyut Board and got retired last year as a Technician, however, he was taking care of the respondent since the year 2005 after his office hours and respondent used to pay him Rs.5000/- per month. There was no written agreement for the said service and neither he has shown the same in his ITR nor given any written intimation to the department for his party time job. He again said, he took VRS in December, 2003 though his superannuation month was December, 2018. He deposed that he tendered his service as caretaker to the respondent during day time and in the night on call, however he failed to specify the chronic disease which has been suffered by the respondent. He also failed to know the name of the Doctor of respondent and the medicines taken by her. He failed to have any personal knowledge regarding any other property owned by the respondent. He admitted that there is no electricity supply in the tenanted premises since last 7 to 8 years due to non-payment of dues. He stated that he was sent by respondent for publication of public notice in April, 2014 in two newspaper "Jansatta" and 'Indian Express' at Tis Hazari Courts, Delhi. He failed to tell in which capacity, the petitioner is residing on the ground floor of the suit property. He deposed that the respondent never shifted to any other premises. He stated that the respondent is using generator for electricity and almost 20 litres of fuel is consumed per month.

(iv) **RW-4 Sh. Mahesh Chand, Section Officer, BSES Office, Shankar Road, Delhi** brought the summoned record with respect to electricity bill and request of electricity connection of the respondent in the 'tenanted premises' and has proved the same

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collectively as Ex.RW4/1 (running into 57 pages).

No other witness was examined on behalf of the respondents and respondents' evidence was closed vide order dated 05.07.2019.

10. Final arguments were heard on behalf of both the parties, during which it is argued on behalf of the petitioner that he has claimed the ownership over the suit property on the basis of conveyance deed and mutation in his favour. The respondent is tenant by virtue of section 2 (iii) (a) as her husband was admittedly a tenant in the suit property. However, the original tenant shifted to some other property along with family members in the year 1974 and since then nobody is residing in the tenanted premises. Further, the original tenant acquired various residential properties during his life time, which are succeeded by the respondent and the respondent herself has acquired properties. In view of the same, she is liable to evicted under section 14 (1) (d) & (h).

11. Per contra, it is argued on behalf of the respondent that the ownership of petitioner over the tenanted premises is disputed and the release deed, conveyance deed etc. in his favour are invalid documents in view of registered Partition Deed between the LRs of original owner late Sh. Jai Singh Sachdeva. It has also been argued that Section 116 of the Indian Evidence Act is not applicable in the present matter, as the original tenant was not inducted by the petitioner. Hence, there is no Jural relationship between the parties. He has also raised objections as to limitation as the present petition has been filed after 43 years of service of legal notice for eviction. Further, this Court does not have any jurisdiction to decide on point of ownership. The Ld. counsel relied upon a **judgment in Shambhu Nath Mitra Vs. Khaitan Consultant Limited Citation AIR 2005 Cal 281**, in rebuttal for presumption U/s. 116 Indian Evidence Act. He also relied upon judgment in **Pritpal Singh Vs. Satpal Singh through LRs 2010 Vol. 2 SCC 15** along with other numerous case laws filed on record. He has also argued that after the partition deed, the status of LRs of the original owner Sh. Jai Singh Sachdeva as co-owners ended, hence, they could not relinquish their shares in the entire property through release/relinquishment Deed. Therefore, the said deeds are invalid and title could not have been transferred to the petitioner. In view of the same, decree of possession can not be granted to the petitioner. Lastly, he has argued that no executant, attesting witnesses, registrar or witness from L&DO has been examined by the petitioner in order to prove the documents. Even the execution of partition deed was concealed by the petitioner, hence he has not come to the

court with clean hands.

12. In rebuttal, Ld. counsel for petitioner argued that all the release/relinquishment deed are with consideration and after considering the entire chain of documents, the L&DO transferred the rights to the petitioner. The public document qua the same have been exhibited on record, so the onus of proof that they are forged documents is on the respondent, as per section 101 of The Indian Evidence Act. It has been further argued that the Delhi Rent Control Act, 1958 is a complete code in itself, as per section 1 and section 14 (Non Obstante clause) of the Act. He has also relied upon section 36 (2), 37, 50 & 56 of the Act and argued that the limitation act does not apply to the present act. Even though, it is considered to be applicable, the present eviction petition is well within time as the petitioner acquired the entire suit property only on 15.11.2011 and the petition is filed on 14.03.2014.

13. The entire record has been carefully perused including the written submissions filed on behalf of both the parties including the case laws.

Let's discuss the Law first, as per which in order to establish the case under consideration, the petitioner is required to prove the following ingredients :-

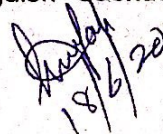
- (i) That there is relationship of landlord and tenant between the parties;
- (ii) That the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of filing of the application for the recovery of possession thereof u/s 14(1)(d); and
- (iii) That the tenant has acquired vacant possession of a residence or a residence has been allotted to the tenant for section 14(1)(h)

14. Now discussing the aforesaid ingredients one by one in details with respect to case in hand.

(a) Relationship of landlord and tenant between the parties.

It is the case of the petitioner that the property bearing No.R-875, New Rajinder Nagar, New Delhi ie the suit property was allotted to his grand-father namely Late Sh. Jai Singh Sachdeva by the Ministry of Rehabilitation vide allotment letter dated 10.04.1954 and conveyance deed qua the same was executed in his favour on 18.04.1961 proved as Ex. PW-1/1 & PW-1/2. However after his death on 27.12.1968, the property in question had devolved upon his legal heirs namely Sh.Jagdish Sachdeva(Son), Smt. Pushpawati

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(daughter-in-law), Smt. Shanti Devi(daughter), Smt.Sushila Roy Choudhary (daughter) & Sh. S.S.Sachdeva (son). Accordingly, the office of the L&DO substituted their names and executed a lease deed in their favour on 09.07.1984 proved as Ex. PW-1/6, which was registered on 23.02.1985. Thereafter the surviving Legal Heirs released/ relinquished their share/rights in the suit property in favour of the petitioner vide separate release/ relinquishment deeds proved as Ex. PW-1/7 to PW-1/11. The L&DO Office considering the aforesaid relinquishment/release deeds in favour of the petitioner, substituted the name of the petitioner exclusively vide substitution letter dated 25.02.2011 and conveyance deed dated 15.11.2011 proved as Ex.PW-1/12 &PW-1/13 and the petitioner became the absolute owner of the entire suit property. The original tenant was inducted by his grandfather and despite legal notice of eviction, he did not vacate the tenanted premises but shifted to other accommodation with his family in the year 1974. After his death the respondent became the tenant as per law and as she is not residing in the tenanted premises for last several years and has also acquired other residential premises, hence she be evicted.

In the written statement filed by the respondent, it is specifically admitted that Sh. Jai Singh Sachdeva was the owner of the property in question vide conveyance deed executed by the Ministry of Rehabilitation, Govt. of India and the erstwhile allottee/ owner Sh. Jai Singh Sachdeva, during his lifetime had let out the 'tenanted premises' for residential purpose to the husband of the respondent Sh. Surinder Nath Anand in the year 1960. It is also admitted that after the owner died intestate, the property devolved upon his 6 legal heirs equally and wife of Shri Jai Singh Sachdeva bequeathed her 1/6 part of share in the suit property in favour of one of his sons namely Shri S.S.Sachdeva by virtue of Will dated 23 September 1971. Therefore, after the demise of Smt. Shiva Devi, Sh. S.S.Sachdeva became the owner of 2/6th part of share of the entire property. However it is contended that a partition deed dated 15 October 1977 was executed and registered amongst the surviving legal heirs and their joint status of co-owners ended, therefore after their death their respective LR's, couldn't have relinquished their share in favour of the petitioner not being the co-owners. Hence the ownership of petitioner is disputed._

15. During cross examination of the petitioner as PW-1, the suggestions were put to him and he admitted that his grandfather inducted the original tenant Late Shri Surendra Nath Ananth in the tenanted premises in the year 1960 for residential purposes. He also admitted that his grandfather late Shri Jai Singh Sachdeva expired interstate on 27th

December 1968 and the original tenant expired on 12.12.1992 leaving behind his legal heirs ie the present respondent and their children. He also admitted that late Shri Jai Singh Sachdeva expired leaving behind his wife Mrs Shiva Devi, sons Mr Jagdish Singh Sachdev, Shri Tara Chand Sachdeva, Shri S.S.Sachdeva and two daughters namely Mrs Shanti and Sushila Roy Choudhury. He also admitted that after demise of Shri Jai Singh Sachdeva the entire suit property bearing number R-875 New Rajender Nagar, New Delhi devolved upon the aforesaid six legal heirs and Mrs Shiva Devi vide registered Will dated 23rd September 1971 bequeathed her 1/6th share in the suit property to his father late Shri S.S.Sachdeva hence his father became the owner of 2/6th share of the entire property. This all being his case.

Hence, the ownership of grandfather of the petitioner over the suit property and induction of original tenant in "tenanted premises" is not in dispute. It is also not in dispute that the property devolved upon LR's after the death of original landlord. The only contention remains that by virtue of Partition deed the sons & daughters ended their joint ownership over the suit property so cannot release their shares/rights in the entire suit property in favour of the petitioner.

16. However, it is admitted by the respondent in her cross-examination as RW-1 that she filed cases for installation of electricity in the tenanted premises in question, wherein the petitioner was made a party. Further, the petitioner has shown his ownership over the 'tenanted premises' by relying upon the substitution letter dated 25.02.2011 and conveyance deed dated 15.11.2011 executed by L&DO in his favour as Ex.PW-1/12 &PW-1/13. It has been the contention and objection of respondent that without filing original documents on record, these documents have been exhibited. However, this Court is guided by judgments of the Superior Courts wherein it is categorically held that exhibits are only nomenclature given to documents for identification.

17. Further, reliance is placed by this Court upon judgment delivered by **Hon'ble Apex court in *Shanti Sharma Vs. Ved Prabha AIR, 1987, SC 2028***, where it has been held that, "ownership is not to be understood as absolute ownership but only as a title better than the tenant".

18. Reliance is also placed upon judgment delivered by our Hon'ble High Court in ***Rajendra Kumar Sharma & Ors Vs. Leelawati & Ors 155 (2008) DLT 383*** wherein it has been held that, "landlord is not supposed to prove absolute ownership as required under

transfer of Property Act. He is required to show only that he is more than a tenant”.

19. Further, it is well settled proposition of law that even a co-owner can demand eviction of the tenanted premises. Reliance is also placed upon the judgment in case titled as *M/s. India Umbrella Manufacturing Co. & Ors. Vs. Bhagabandel Agarwalla (dead) by LRs & Ors.*, AIR 2004 Supreme Court 1321, decided by Hon'ble Supreme Court wherein it was held that “one of the co-owners can file a suit for eviction of a tenant in the property generally owned by the co-owners. This principal is based on the doctrine of agency. One co-owner filing a suit for eviction against the tenant does so on his own behalf in his own right and as an agent of the other co-owners. The consent of other co-owners is assumed as taken unless it is shown that the other co-owners were not agreeable to eject the tenant and the suit was filed inspite of their disagreement.

20. Furthermore, the petitioner is predecessor-in-interest of the original owner/landlord being his grandson and not a third party. Still further, the petitioner is admittedly residing on the ground floor of the suit property as per RW-3 and not an unknown person that the respondent gave Public Notice in the newspapers for the public at large to claim rent. She seems to have known fully well that the property is still in the family.

21. From the above-stated discussions and documents on record, it appears that the petitioner is landlord qua 'tenanted premises' being entitled to rent as per the Law and there is landlord-tenant relationship between the parties.

22. Now coming to the requirement for eviction U/s 14(1)(d).

(b) That the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of filing of the application for the recovery of possession thereof.

The averment of the petitioner is that the tenanted premises was let out for residential purpose. It is not disputed on behalf of the respondent that the tenanted premises was let out for residential purpose as it is admitted specifically that owner Sh. Jai Singh Sachdeva, during his lifetime had let out the 'tenanted premises' for residential purpose to the husband of the respondent Sh. Surinder Nath Anand in the year 1960.

23. Coming to the second limb of the section, it is averred by the petitioner that the



original tenant late Sh. Surinder Nath Anand shifted his residence to A-42, Kailash Colony, Delhi in the year 1974 and thereafter none of his family members stayed in the 'tenanted premises' thereafter. To prove the same he has averred that the electricity connection of the tenanted premises is lying disconnected since 19.10.2003, since no one is residing there and has filed certain documents on record to show that. It is admitted by the respondent and her caretaker while under examination as RW-1 & RW-3 that there is no electricity connection in the 'tenanted premises' as it was disconnected long back and they are managing somehow with the help of generator and inverter for years. RW-3 even deposed that it got disconnected due to non-payment 7-8 years ago. This seems to be somehow unbelievable that the tenant is residing in the premises without Electricity connection for years.

24. The purchase and possession of property bearing no. A-42, Kailash Colony, New Delhi in residential colony and its sale after partition through High Court of Delhi has been admitted by the respondent during her cross-examination as RW-1, though initially it was denied that respondent acquired any property as mentioned by the petitioner. Though, it is stated that the premises were used as office but thereafter respondent did not give straight answers regarding it. The petitioner averred that the respondent along with other LRs of the original tenant sold the property bearing no. A-42, Kailash Colony, New Delhi by virtue of sale deed dated 26.04.2000, wherein the address of K-228, Sainik Farms, New Delhi has been mentioned as residence and the photocopy has been filed on record.

25. It has been averred further by the petitioner that the respondent Smt. Kushal Anand has also acquired the premises bearing No.K-228, Sainik Farm, New Delhi, where she is presently residing with her two daughters namely Ms. Suparna and Ms. Shivani Anand. However, the respondent deposed that the property bearing no K-228, Sainik Farms, New Delhi exclusively owned, possessed and enjoyed by her daughter Ms. Suparna Anand and she frequently visits her and stays there for medical attention. However, the documents filed by the petitioner on record ie. *Copy of house tax receipt retrieved from MCD house tax portal through internet pertaining to the residential premises bearing number K-228 Sainik Farm, New Delhi and the Copy of electricity bill for the period 17 April 2014 to 16 May 2014 pertaining to electricity connection bearing CA No 100167411 in the name of the respondent Mrs Kaushal Anand at premises bearing number K-228 Sainik Farms, New Delhi* favours the petitioner as respondent has failed to prove them forged and general denial does not suffice. Even the clarification given by the respondent during her cross-

examination on her Election card of the address of K-228, Sainik Farms, New Delhi that she has not got it prepared and her daughter insisted to live with her and due to her daughter's matrimonial disputes, she is in a habit of creating such documents doesn't hold water.

26. Even the caretaker examined as RW-3 by the respondent does not appear to be a credible witness, as he lacks basic knowledge about the respondent despite stating to be her caretaker since 2005. Further, even respondent admitted to have opened the account in PNB after filing the present suit, which seems to be only for creating residential record and still holding the Election card of the tenanted premises is proof of residing there when the other election card of K-228, Sainik Farms, New Delhi has been put to the witness which stand in her name along with other documents.

In view of the discussion above, it can be safely held that the respondents are not residing in the tenanted premises for a period of six months immediately before the date of filing of the present petition, or even for a very long period. **Therefore, this Court is of the considered opinion that the petitioner has proved all the necessary ingredients of Section 14 (1) (d) of Delhi Rent Control Act, 1958.**

27. Lastly coming to the essential for section 14(1)(h) of the Act ie. **(c) That the tenant has acquired vacant possession of a residence or a residence has been allotted to the tenant.**

It is averment of the petitioner that the original tenant acquired various properties during his lifetime after creation of the present tenancy, details of which are as follows:

- a) property bearing No. A-42, Kailash Colony, New Delhi
- b) plot of 1400 sq. yards at NIIT Faridabad, Fruit Garden.
- c) plot AC-42, in Green Field measuring 356 sq. yards.
- d) A-902 & 903, Kanti Apartment, Mount Marry Road, Bandra, Bombay.
- e) Shop X-9, Patel Nagar, New Delhi.
- f) H.No.1/33 & 1/34, Old Rajinder Nagar, New Delhi.
- g) H.No.J-366, New Rajinder Nagar, New Delhi

Out of the aforesaid properties, the property bearing H.No.1/33 and 1/34, Old Rajinder Nagar, New Delhi and H.No.J-366, New Rajinder Nagar, New Delhi are residential in nature. Further, the respondent Smt. Kushal Anand has also acquired the premises bearing No.K-228, Sainik Farm, New Delhi, where she is presently residing.The

respondent along with other LRs of the original tenant sold the property bearing no. A-42, Kailash Colony, New Delhi by virtue of sale deed dated 26.04.2000, wherein the address of K-228, Sainik Farms, New Delhi has been mentioned as residence. Even the respondent is having election card no HZT1557990 from the said address as per the electoral roll 2013 of assembly Constituency No.48(Ambedkar Nagar) Part no. 140.

28. In order to prove his case the petitioner filed the following documents , which are part of record ie.,

1) Copy of house tax receipt retrieved from MCD house tax portal through internet pertaining to the residential premises bearing number K-228 Sainik Farm, New Delhi.

2) Copy of electricity bill for the period 17 April 2014 to 16 May 2014 pertaining to electricity connection bearing CA No 100167411 in the name of the respondent Mrs Kaushal Anand at premises bearing number K-228 Sainik Farms, New Delhi.

3) Certified copy of sale deed dated 16 November 1970 pertaining to property bearing number 1/33 Old Rajender Nagar, New Delhi having registration number 7004 in additional book number one, volume 2521 on page number 47 to 54th

4) Certified copy of sale deed dated 29 July 1987 pertaining to property bearing number 1/34 Old Rajender Nagar, New Delhi having registration number 6256 in additional book number one, volume number 5901 on page number 1 to 6

5) Certified copy of registered release deed dated 21 April 1994 pertaining to property bearing number J-366 New Rajender Nagar, New Delhi having registration number 2782 in additional book number one, volume number 8245 on page number 66 to 168

29. The respondent denied acquiring of any of the properties mentioned above by the petitioner as in paras No. 18 (a) (XIV & XV) of the petition and are stated to be absolutely false and fabricated, as none of these properties is owned and possessed by the respondent for her residential purposes.

However, it is admitted by the respondent in her cross-examination that property bearing no. A-42, Kailash Colony, New Delhi was acquired by her husband after taking the tenanted premises in question on rent but it is stated that he was in business of sale/ purchase of properties and it was used as office, but the respondent has failed to show any such document on record whereas the petitioner has filed certain documents which

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are contrary to stand of the respondent and admittedly it was a residential property, sold by her and her children after demise of the original tenant. It is also admitted by the respondent as RW-1 that the release deed qua property bearing no. J-366, New Rajinder Nagar, New Delhi bears the signatures of her son at point A and signatures of daughter at point B on Ex. RW-/X1, though the deed was denied initially.

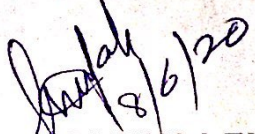
30. Even the documents and evidence when scrutinised, prima facie points towards the respondent being residing at K-228, Sainik Farms, New Delhi at present as owner. She also appears to have vacant possession of various residential properties, in view of the above discussion.

31. As far as the point of limitation remains, this Court is of considered opinion that the petition is well within period of limitation as per the Law. The contention that the petitioner concealed the facts of partition deed does not hold any ground as the petitioner has claimed ownership on the basis of conveyance deed by L&DO after the said deed. Lastly, the objection as to release and relinquishment deed also does not hold water as the effect of both is the same.

32. In these circumstances, it is held that the petitioner has successfully proved his case U/s 14 (1) (d) & (h) of the Act and the petition stands allowed. Accordingly, an eviction order is passed U/s 14 (1) (d) & (h) of DRC Act in favour of the petitioner and against the respondent in respect of two rooms and one store room along with kitchen, toilet and bathroom on the first floor forming part of property bearing no. R-875, New Rajinder Nagar, New Delhi-110060, as shown in red colour in the annexed site plan filed by the petitioner.
No order as to costs.

File be consigned to Record Room.

Announced in the open court
on 18.06.2020


(SHEFALI BARNALA TANDON)
Administrative Civil Judge -cum-
Additional Rent Controller (Central)/ Delhi.

(This judgment contains 19 pages in total)