

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

E-78036/16

In the matter of :-

1. Sh. Jagesh,
S/o Late Sh. Brij Mohan Aggarwal,
Through LRs (Since deceased)
a) Smt. Suchitra Aggarwal (wife)
b) Sh. Anuj Aggarwal (son)
c) Sh. Neeraj Aggarwal (son)

All R/o. 513, 3rd Floor,
West Parmanand Colony, Delhi.

2. Sh. Pawan Kumar,
S/o Late Sh. Brij Mohan Aggarwal.

3. Smt. Misri Devi,
W/o. Sh. Suresh Kumar,

Both R/o. 1958, Kucha Chelan,
Khari Baoli, Delhi – 110006.

4. Smt. Bimla Devi,
W/o. Sh. Narain Dass,
R/o. 45-A, Sarjan Society,
Parle Point, Suraj – 395007,
Gujarat.

.....Petitioners.

Versus

Sh. Rajesh Kumar,
S/o. Sh. Hazari Lal,
R/o. 1013, Ward No. 3, Katra Ghee,
Tilak Bazar, Phatak Hafiz Khan,
New Delhi.

....Respondent.

Date of Institution : 18.10.2014
Date of order when reserved : 01.07.2020
Date of order when announced : 06.07.2020

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JUDGMENT

1. Vide this judgment, the undersigned shall dispose off the present eviction petition against the respondent/ tenant U/s 14 (1) (e) of the Delhi Rent Control Act, 1958 (hereinafter referred to as '*the Act*'), in respect of property bearing municipal No. 1013, Ward No. 3, Katra Ghee, Tilak Bazar, Phatak Hafiz Khan, New Delhi, (hereinafter referred to as '*tenanted premises*'). The site plan showing the tenanted portion in red colour is annexed with the petition.

2. The brief facts of the case, as mentioned in the petition are that the tenanted premises/suit property was originally purchased by one Sh. Sanmukh Singh, however the same was thereafter sold jointly to Sh. Brij Mohan and Sh. Suresh Kumar vide registered sale deed, copy of which has been annexed. After purchasing the said property, one of the co-owners Sh. Suresh Kumar died intestate leaving behind his wife, who is the only LR and **petitioner no. 3** in the present petition.

3. Thereafter, the other co-owner Sh. Brij Mohan also died intestate leaving behind his first wife namely Smt. Sheela Devi and their sons as well as his second wife Smt. Raj Dulari. Accordingly, a partition deed was executed between his LRs in respect of his share in the '*tenanted premises*', which was duly registered having Document No. 133, Addl. Book No. 1, Vol. VI, pages 35 to 41 registered on 23.06.1998. Subsequently, Smt. Sheela Devi also died intestate leaving behind her sons/LRs, who are **petitioner no. 1 & 2**. Smt. Raj Dulari sold her share in the property in favour of Smt. Bimla Devi, **petitioner No. 4**.

4. That the father of the respondent was orally inducted by the erstwhile owner in the '*tenanted premises*' on a monthly rent of Rs.125/- excluding the electricity, water & other charges. No agreement was ever executed between the owner and father of the respondent. After the death of the original tenant Sh. Ajit Singh, the present respondent stepped into his shoes and became the tenanted in the '*tenanted premises*'. The premises is an old structure, as per the MCD record and it was let out to the tenant long


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back. The respondent has been using the tenanted premises for commercial purposes, however, the same was let out for residential purposes.

5. It is averred that the petitioners require the '*tenanted premises*' bonafidely for their own residential use. As petitioner No. 1 is residing in a portion which consists of only three rooms i.e. one living room, one small room and one drawing room alongwith kitchen, two bathrooms and balcony, however his family consist of his wife, his two married sons namely Sh. Anuj Aggarwal and Sh. Neeraj Aggarwal, who are petitioners No. 1 (a) to (c) respectively now, along with their wives and children. Hence the premises in which they presently residing is not sufficient for residential purposes.

6. The petitioner No. 2 namely Sh. Pawan is residing in a rented accommodation having only one room, kitchen, latrine and bathroom, though his family comprises of his wife, three daughters, one married son and his wife as well as grandchildren. Hence there is insufficiency of accommodation.

7. Petitioner No. 3 Smt. Misri Devi is a widow and has been residing in a rented accommodation alone. Petitioner No. 4 Smt. Bimla Devi is an old woman and wants to reside in the '*tenanted premises*' at Delhi being her hometown, as presently she is residing in Surat, Gujrat.

The petitioners do not have any other alternate suitable accommodation for themselves as well as for their family members. Hence, the present eviction petition has been filed with the prayer to pass eviction order against the respondent in respect of the '*tenanted premises*'.

8. Accordingly, notice was issued against the respondent, however in the meanwhile petitioner No. 1 Sh. Jagesh expired and vide order dated 11.03.2015, the application under Order 22 Rule 3 r/w section 151 CPC was allowed thereby impleading his LRs as petitioners No. 1 (a) to (c).

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Thereafter, vide order dated 11.03.2016, the leave to defend application of the respondent was allowed by the Ld. Predecessor of this Court, as triable issues were raised.

9. Written statement has been filed by the respondent, wherein the allegations levelled by the petitioner are denied in general, and as preliminary objection it is contended that petitioners have nowhere pleaded that they are the owners of the '*tenanted premises*' / demised premises in question and the ingredients of the section, hence is liable to be rejected . It is also contended that at the time of filing of the present eviction petition which is filed on 18.09.2014, petitioner no.1 Sh. Jagesh had no authority to sign the petition on behalf of the petitioner No. 4 as the SPA is dated 10.10.2014.

10. On merits, it is contended that as per the document filed on record only Sh. Suresh Kumar was the owner of the '*tenanted premises*'. The other petitioners have not filed any document qua their ownership. Even otherwise, the petitioners have not disclosed the other properties owned by them. As per his knowledge, the petitioners have following properties i.e. (i) property bearing no. 838-840, Queens Road, S.P. Mukherjee Marg, Delhi-06 consisting of 18 rooms with attached bathroom, WC and kitchen (ii) H.No. 2526, Teliwara, Tokri Walan, Delhi. (iii) two buildings in Uttam Nagar, New Delhi and (iv) 1958, Kucha Chelan, Khari Baoli, Delhi etc. It is also contended that the present petition is bad for mis-joinder of necessary party, as a single petition cannot be filed by the petitioner jointly claiming to be owner of different portions. It has also been contended that petitioners have falsely stated that Smt. Raj Dulari was not having any child whereas as per documents filed on record, it has transpired that Smt. Raj Dulari was having one son namely Sh. Manish @ Kuldeep, hence there is concealment of facts. The site plan filed by the petitioners is also disputed by stating it as incorrect. It is stated that the father of respondent was allotted the '*tenanted premises*' in the year 1947 as it was a custodian property. It is contended that only a small portion of the '*tenanted premises*' is being used for business purpose after getting permission from its owner long ago. It is lastly contended that the respondent has paid the rent upto 31.13.2007 of the '*tenanted premises*' to its owner

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Sh. Suresh Kumar through his authorised representative and thereafter no-one came to collect rent from the respondent, however he is willing to pay it to the rightful owner.

11. Replication has been filed on behalf of petitioners to the written statement of the respondent denying all the allegations levelled against them. It has been stated that the after the death of Mr. Jagesh, his legal heirs have already been impleaded as party in the present petition. It has been further submitted that nine rooms, out of 18, in the property bearing No. 838-840, Queens Road, S.P. Mukherjee Marg, Delhi-110016, stand exclusively in the name of Smt. Mishri Devi /petitioner no. 3 only, which have been occupied by the different tenants. The petitioners have no concern/connection with the property bearing no. 2526, Teliwara, Tokri walan, Delhi and/or two buildings in Uttam Nagar. However, It is submitted that the petitioner no.2 namely Pawan Kumar is residing in property No. 1958, Kucha Chelan, Khari Baoli, Delhi as a tenant, as already stated in the petition.

12. In order to substantiate the petitioners case, the petitioner No. 2 namely Sh. Pawan Kumar has been examined as PW-1, who tendered his evidence by way of affidavit **Ex.PW1/A**, wherein he re-iterated the averments made in the petition. He relied upon documents i.e. **Ex.PW1/1**, which is the photocopy of certified copy of sale deed; Mark 'A' is the partition deed (mentioned as ExPW-1/2 in the affidavit); **Ex. PW-1/3** being the site plan; **Ex. PW-1/4(OSR)** is the death certificate of Sh. Suresh Kumar & Mark 'B' is the copy of sale deed executed between Smt. Raj Dulari and Smt. Bimla Devi.

During his cross-examination, he failed to know whether the petitioner No. 4 or her husband or her son are having two shops in the property No. 838-840, S.P. Mukherjee Marg, New Delhi and that they are the owners of the property bearing No. 847, S.P. Mukherjee Marg, New Cloth Market, Delhi. He failed to know the size of the property bearing No. 838-840, S.P. Mukherjee Marg, New Delhi, however stated that the said property is having 9 rooms on the first floor, 9 rooms on the second floor and four shops on the ground floor. He admitted that his father Sh. Brij Mohan and his uncle Sh. Suresh Kumar were the owners of property No. 838-840, S.P. Mukherjee Nagar, Near

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Cloth Market, Delhi, however all the four shops on the ground floor have already been sold out by Sh. Suresh Kumar and Smt. Raj Dulari. Smt. Raj Dulari also sold two rooms on the first floor and two rooms on the second floor of the said property are in her possession. Nine rooms in the said property are owned by Smt. Mishri Devi (petitioner No. 3), which are in possession of her tenants. Out of remaining five rooms, three rooms were sold by him and Sh. Jagesh Kumar around 5-6 years ago. The remaining two rooms are in possession of the tenants under his tenancy. He stated that he is the owner of 25% share of the portion of the property in question/ 'tenanted premises' and has filed the document qua his portion, which is Mark A i.e. Partition Deed. He stated that Smt. Mishri Devi (Petitioner No. 3) has not filed any eviction petition against her tenants in the property bearing No. 838-840. Out of 18 rooms in the said property, 16 rooms are being used for commercial purposes and Smt. Raj Dulari is living in two rooms. There are two rooms on the ground floor and one room on the first floor in the 'tenanted property'. He stated that Smt. Mishri Devi resides at H.No. 1958, Kucha Chelan, Khari Baoli, Delhi.

No other witness was examined on behalf of the petitioners and petitioner's evidence was closed vide order dated 02.05.2019.

13. In rebuttal, respondent namely Sh. Rajesh Marwah examined himself as RW-1, who tendered his evidence by way of affidavit, proved as Ex.RW1/A.

During his cross-examination, he deposed that the 'tenanted premises' were in possession of his father since the year 1947-48 and he has been residing in the 'tenanted premises' as a tenant. He has paid rent of the 'tenanted premises' till the year 2007-08. He stated that Sh. Suresh Kumar is the owner of the 'tenanted premises' and failed to have any knowledge regarding his death as well as owner of the 'tenanted premises' after his death, but later on admitted that petitioner no. 3 is the wife of previous owner Late Sh. Suresh Kumar and deemed her to be the owner of the 'tenanted premises'. He deposed that he cannot produce any documentary proof qua the properties of the petitioners as mentioned in para no. 4 of his affidavit, Ex. RW-1/A. He admitted that petitioner No. 2 namely Sh. Pawan Kumar is residing at 1958, Kucha Chelan, Khari Baoli, Delhi but resiled from it later on.

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He failed to know whether petitioners No. 1, 2 & 4 are the co-owners of the 'tenanted premises'.

No other witness has been examined on behalf of the respondent and respondent's evidence was closed vide order dated 06.03.2020.

14. Written final arguments have been filed on behalf of both the parties, wherein the facts have been re-iterated. Oral arguments were also heard through video conferencing. The entire case file has been perused carefully including the written arguments.

15. Now, before appreciating the present facts of the case, let's discuss the basic law on the point. The essential ingredients which a landlord/ petitioner is required to prove for the purpose of getting an eviction order for *bona fide* need are as follows :-

- (i) the petitioner is the owner and landlord of the suit premises,
- (ii) the suit premises are required *bona fide* by the landlord for himself or any of his family members dependent upon him, and
- (iii) the landlord or such other family members has no other reasonable suitable accommodation.

16. Let's discuss the first ingredient/essential in detail :-

(i) Ownership as well as existence of landlord-tenant relationship :-

It is the case of the petitioners that the property bearing no. 1013, Ward No. 3, Katra Ghree, Tilak Bazar, Phatak Hafiz Khan, New Delhi i.e. the 'tenanted premises' was purchased by Sh. Brij Mohan and Sh. Suresh Kumar from the erstwhile owner, by way of registered sale deed which is exhibited as Ex. PW-1/1. However, after their death, the 'tenanted premises' had devolved upon their legal heirs respectively, herein petitioner nos.1 to 3. However one of the LRs of Sh. Brij Mohan namely Smt. Raj Dulari sold the portion in the 'tenanted premises', which came to her share vide registered Partition Deed to the petitioner No. 4. During pendency of the present petition, petitioner No. 1 Sh. Jagesh Kumar also expired and his LRs have been impleaded as petitioners

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No. 1 (a) to (c). Hence, all the petitioners have acquired the right/ share in the 'tenanted premises'.

However, the respondent has denied the ownership of all the petitioners except of petitioner no.3 in his written statement and contended that they have not pleaded that they are the owners of the 'tenanted premises'. It is also contended that as per the document filed on record only Sh. Suresh Kumar was the owner of the 'tenanted premises'. The other petitioners have not filed any document qua their ownership. However, surprisingly it is stated that the father of respondent was allotted the 'tenanted premises' in the year 1947, as it was a custodian property, but in later paras of the written statement it is admitted that his father was a tenant in the same. It is also admitted that only a small portion of the 'tenanted premises' is being used for business purpose after getting permission from its owner long ago. It is lastly contended that the respondent has paid the rent upto 31.13.2007 of the 'tenanted premises' to its owner Sh. Suresh Kumar through his authorised representative and thereafter no-one came to collect rent from the respondent, however he is willing to pay it to the rightful owner.

17. Even during the cross-examination, respondent/RW-1 admitted that the 'tenanted premises' were in possession of his father since the year 1947-48 and he has been residing in the 'tenanted premises' as a tenant. He has paid rent of the 'tenanted premises' till the year 2007-08. The same is not denied in the final arguments also. Therefore, the contention that to mislead the Court the name of some Ajit Singh has been mentioned as of tenant, whereas the father of respondent was admittedly tenant inducted by the erstwhile owner, doesn't hold substance as it seems to be only clerical mistake and no suggestion as to same has been put to PW-1. Therefore, as per the pleadings and admissions during evidence, the respondent is a tenant in the 'tenanted premises'.

18. The respondent has also not disputed the ownership and status of petitioner no.3 as landlady, being wife/LR of earlier owner late Sh. Suresh Kumar. However, he has denied ownership/ landlordship of petitioner no. 1,2 & 4 stating that they have not filed any document on record to show their ownership in respect of the 'tenanted premises'.

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But as per record, the petitioners have relied upon the photocopy of certified copy of sale deed in respect of the 'tenanted premises' as Ex. PW-1/1, the partition deed between the LRs of Sh. Brij Mohan as Mark 'A' & the copy of sale deed executed between Smt. Raj Dulari and Smt. Bimla Devi/ petitioner no.4 as Mark 'B'. All these documents prima facie points towards the ownership of the petitioners over the 'tenanted premises'. Further, the petitioner no.3 has not objected to their title and has rather filed the present petition jointly with them as co-owners. At this stage, the Court is guided by the following Judgments of the Superior Courts :-

(1) 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".

(2) 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".

The relation of the present petitioners with Late Sh. Brij Mohan and Sh. Suresh have also not been disputed or denied by the respondent. Therefore, all the LRs/ children of the co-owners/ co-landlords Sh. Brij Mohan and Sh. Suresh Kumar stepped into their shoes after their demise and became the landlords of the "tenanted premises" as per section 2 (e) of the Delhi Rent Control Act, 1958.

19. Regarding the contention of the respondent that the present petition is bad for mis-joinder of necessary party, as a single petition cannot be filed by the petitioner jointly claiming to be owner of different portions, 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

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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."

In view of the aforesaid judgment of the Apex Court specifically on the Delhi Rent Control Act, 1958, the judgment filed on behalf of the respondent, which is on mis-joinder of necessary or proper parties under Specific Relief Act does not hold water.

20. Further, in the instant case, the co-owners have filed the present petition for eviction and there is no impediment to the same as the 'tenanted premises' is a single unit, being under tenancy of a single tenant.

With this background, the ownership of petitioners over the 'tenanted premises' as well as existence of landlord-tenant relationship between the petitioners and the respondent stands established.

21. Coming to the second ingredient that the **(ii) landlord requires the tenanted premises bonafidely for himself or any member of his family depended upon him.**

As per the case of the petitioners, the 'tenanted premises' are required bonafidely for their own use as follows:

(a) That the petitioner no. 1 was residing in a portion which consists of only three rooms i.e. one living room, one small room and one drawing room alongwith kitchen, two bathrooms and balcony though his family consisted of his wife namely Smt. Suchitra Aggarwal, his two married sons namely Sh. Anuj Aggarwal and Shri Neeraj Aggarwal, their wives namely Rashi Aggarwal & Smt. Anjali Aggarwal respectively and grandchildren. Therefore, the premises in which the petitioner No. 1 was residing and now petitioner no. 1(a) to (c) are residing alongwith the said family members are not sufficient for their proper residence.

(b) The petitioner No. 2 is already residing in a rented accommodation which consists of one room, kitchen, latrine and bathroom though his family consists of his wife namely Smt. Lakshmi Devi, three daughters and one son namely Vikas, his wife

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namely Ruchi and his two children namely Aman and Naman. Hence, there is insufficient space and the tenanted premises are required bonafidely.

(c) That the petitioner no. 3 is a widow, who is living alone in a rented accommodation.

(d) The petitioner No. 4 Smt. Bimla Devi wants to reside in the 'tenanted premises' situated at her hometown Delhi, as she is presently residing in Gujrat.

22. The aforesaid averments of the petitioners have not been denied/disputed by the respondent in his deposition. Further, reliance is placed by this Court upon judgments delivered by Hon'ble Supreme Court of India on the point as follows :-

(i) In **Sarwan Dass Bange Vs. Ram Prakash, 167 (2010) DLT 80 = 2010 IV AD (Delhi) 252**, observations made by Hon'ble Supreme Court in **Baldev Singh Bajwa Vs. Monish Saini, VIII (2005) 12 SCC 778**, have been quoted as under :-

"...It was held that these restrictions and conditions inculcate inbuilt strong presumption that the need of the landlord is genuine; the conditions and restrictions imposed on the landlord make it virtually improbable for the landlord to approach the Court for ejection of the tenant, unless his need is bonafide - no unscrupulous landlord in all probability, under this section, would approach the Court for ejection of the tenant considering the onerous conditions imposed on him. It was further held that this inbuilt protection in the Act for the tenants implies that whenever the landlord would approach the Court his requirements shall be presumed to be genuine and bonafide. It was further held that a heavy burden lies on the tenant to prove that the requirement is not genuine. The tenant is required to give all the necessary facts and particulars supported by documentary evidence if available to prove his plea in the affidavit itself so that the Controller will be in a position to adjudicate and decide the question of genuine or bona fide requirement of the landlord; a mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in the landlord's favour that his requirement of occupation of the premises is real and genuine."

(ii) Hon'ble Supreme Court in **Dattatraya Laxman Kamble Vs. Abdul Rasul Moulali Kotkunde, (1999) 4 SCC 1** held that the phrase "reasonably and bona fide

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required by the landlord" is not to be tested on par with "dire need" of a landlord because the latter is a much greater need.

In view of the above, there seems no malafide intention on the part of the petitioner(s) seeking possession of the 'tenanted premises' and the bonafide need appears to be genuine.

23. Now coming to the last ingredient **(iii) Non-availability of reasonably suitable alternative accommodation.**

The petitioners averred that the 'tenanted premises' are required for bonafide need for their own use and the petitioners does not have any other reasonable suitable alternative accommodation. However, the contention of the respondent is that petitioners are having numerous properties which they have not disclosed and are as under:

- (i) Property bearing No. 838-840, Queens Road, S.P. Mukherjee Marg, Delhi-110006 consisting of 18 rooms with attached bathroom, WC and kitchen.
- (ii) Property bearing No. 2526, Teliwara, Tokri Walan, Delhi.
- (iii) Two buildings in Uttam Nagar, New Delhi and
- (iv) Property bearing No. 1958, Kucha Chelan, Khari Baoli, Delhi

24. Petitioner no.2/ PW-1 has admitted in his cross examination that his father Sh. Brij Mohan and his uncle Sh. Suresh Kumar were the owners of property No. 838-840, S.P. Mukherjee Nagar, Near Cloath Market, Delhi, however, all the four shops owned by them have already been sold out. Smt. Raj Dulari had sold out two rooms on the first floor and two rooms on the second floor of the said property are in her possession. **Nine rooms in the said property are owned by Smt. Mishri Devi (petitioner No. 3) but they are in possession of her tenants. Out of remaining five rooms, three rooms have already been sold by him and Sh. Jagesh Kumar around 5-6 years back. The balance two rooms are in his possession, however, the same are under the tenancy of his tenants. Hence, there is no space in the said property.**

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Admittedly, no eviction petition is filed against the tenants of the aforesaid premises, however reliance is placed upon judgment delivered by Hon'ble Supreme Court in case titled as **"Ragavendra Kumar Vs. Firm Prem Machinery & Company"**, **AIR 2000 SC 534**, wherein it was observed by the Court that it is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter (reference made to judgment in **"Prativa Devi Vs. T.V. Krishnan, (1996) 5 SCC 353**).

Further, it is settled law that the landlord is master of his choice and the tenant or the court cannot compel a landlord to choose a particular place against his choice.

25. The petitioners have denied any connection with/ ownership of the property bearing No. 2526, Teliwara, Tokri Walan, Delhi and two buildings in Uttam Nagar, New Delhi. The respondent contended that these properties are of the petitioners but on their denial, the burden to prove the same was on the respondent but he miserably failed in it, as in his cross examination stated that he cannot produce the documentary proof qua the properties of the petitioner as mentioned in para no. 4 of his affidavit, Ex. RW-1/A.

26. Regarding the last property mentioned by the respondent to be under ownership of the petitioners, it is averred by the petitioners that petitioner no. 2 & 3 resides in it as a tenant. The respondent has failed to bring on record anything to show their ownership over the said property.

27. Reliance is also placed upon judgment delivered in a case titled as **Ramesh Chand Vs. Uganti Devi, 157 (2009) DLT 405**, where it has been clearly held that "a tenant who alleges that landlord has at his disposal other accommodation has to place before the Controller, some material to show that the landlord has a specific alternative accommodation at his disposal". Mere bald allegation with respect to availability of additional accommodation with the petitioner does not hold any basis and cannot be a basis to deny the petitioner of his right to vacate the tenanted premises for his bonafide requirement".

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28. Hence, in present matrix there seems no substance in the arguments of the respondent that petitioners have other alternative suitable accommodation. **With this background, it seems that the petitioners do not have any reasonably suitable alternative accommodation for themselves as well as for their family members except the 'tenanted premises'.**

29. Lastly, coming to the other contention of the respondent. It is contended that at the time of filing of the present eviction petition which is filed on 18.09.2014, petitioner no.1 Sh. Jagesh had no authority to sign the petition on behalf of the petitioner No. 4 as the SPA is dated 10.10.2014, **hence the petition is not maintainable.** In rebuttal, reliance is placed on various judgments in the written final arguments on behalf of the petitioners, wherein it is held that any of the co-owners can file eviction petition. The Court is also of the same view that there is no force in this argument of the respondent as it is well settled law that any co-owner can file the eviction petition as held in ***M/s. India Umbrella Manufacturing Co.(Supra).***

30. It is also the contention of the respondent is that petitioners have not impleaded the another son namely Sh. Manish@ Kuldeep Kumar of Sh. Brij Mohan, however this contention also does not hold water, as he is not averred to be the owner of the demised property in question and reliance is placed on registered partition deed. The title/ absolute ownership can't be adjudicated by this Court and also not germane to the present proceedings. Reference is again made to Judgments in cases titled as ***Shanti Sharma*** (supra) and ***Rajender Kumar Sharma*** (supra).

31. It is further contended by the respondent in his written statement that the site plan filed by the petitioner is incorrect, however respondent has not filed any site plan at all in support of his contention, so the court has no option but to rely upon the site plan filed by the petitioner. It is also contended by the respondent that petitioners have not supplied the coloured site plan, so he cannot ascertain which portion has claimed in the present eviction petition by the petitioners. Admittedly, the respondent is tenant in the entire 'tenanted premises' i.e. property bearing municipal no. 1013, Ward No. 3, Katra

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Ghee, Tilak Bazar, Phatak Hafiz Khan, New Delhi and the present eviction petition has been filed qua the said 'tenanted premises' as such, the respondent is assumed to know the portion of his 'tenanted premises'. Further, it is only a procedure lapse and the technicalities should not come in the way of substantial justice.

32. In view of the aforesaid discussion, this Court is of the considered opinion that the petitioners have proved all the necessary ingredients of Section 14 (1) (e) of Delhi Rent Control Act, 1958. Accordingly, an eviction order is passed U/s 14 (1) (e) of DRC Act in favour of the petitioners and against the respondent in respect of premises municipal No. 1013, Ward No. 3, Katra Ghee, Tilak Bazar, Phatak Hafiz Khan, New Delhi, as shown in the site plan annexed with the petition. 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 06.07.2020


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

(This judgment contains 15 pages in total)