

Prakash Chand Gupta

Vs

K.S. Gupta

Civil Appeal No. 2776 of 1999

S. Saghir Ahmad, S. Rajendra Babu JJ)

07.05.1999

JUDGMENT

S. Rajendra Babu, J.

1. Leave granted.

2. An application under Section 14-C of the Delhi Rent Contract Act [hereinafter referred to as 'the Act'] was filed by the respondent seeking eviction of the appellant on the ground that he retired from government service on February 28, 1997 and he had to vacate the government accommodation occupied by him during the period of his service and he had no accommodation available to him in Delhi or any where else. He also disclosed certain previous proceedings between the parties. He stated that his family consisted of himself, his spouse, his married son, his daughter-in-law, his grand- daughter and his married daughter also frequently visited him. The respondent also further stated that he had sought eviction of J.K. Jain who occupied another portion of the premises in question and he had assured vacation of the same on November 30, 1997.

3. The petition filed against J.K. Jain numbered as E-111 of 1997 was withdrawn inasmuch as the tenant therein had handed over the vacant possession of the suit premises therein and an order was made to that effect on January 29, 1998. A contention was raised on behalf of the appellant before the Rent Controller that inasmuch respondent had secured possession of another premises and in substance the cause for securing the possession of the same was identical with what was claimed in the petition filed under Section 14-C of the Act and, therefore, the application filed under Section 14-C was not maintainable. The Rent Controller overruled this objection and the High Court in the Revision Petition took the view that the application filed under Section 14-C was maintainable inasmuch as he was due for retirement on February 28, 1997 and the other petition having been withdrawn was no longer pending and could not be treated as proceedings arising out under Section 14-C. In this Court identical contention is urged but we find the view of the High Court in the circumstances obtaining in the proceedings is justified.

4. Now the only other contention that is urged before us is that inasmuch the respondent had obtained possession of another portion of the premises from his tenant J.K. Jain, the claim of the respondent that he needs the premises is not *bona fide*. This aspect does not seem to have been taken note of in the course of the order made by the Rent Controller and the application to defend having been rejected, the Court proceeded to grant the relief claimed by the respondent.

5. In our view, during the pendency of the proceedings inasmuch as the appellant having secured possession of the premises pursuant to the proceedings arising out under the Rent Control Act or

otherwise would be a relevant factor to find out as to the need of the respondent and sufficiency of accommodation. In the circumstances, we grant leave to the appellant to contest the proceedings and set aside the order made by the Rent Controller and remit the matter to the Rent Controller for a fresh consideration on this aspect of the matter by allowing the parties to raise appropriate pleadings in this regard and holding an inquiry thereto by giving an opportunity to the parties to adduce evidence, if any. Considering the nature of the circumstances of the case, it would be appropriate if the matter is disposed of within a period of six months from the date of the receipt of this order.

6. Appeal is allowed accordingly. No order as to costs. The original documents of the case shall be returned to the Rent Controller at once. Appeal allowed.