

SUPREME COURT OF INDIA

Kishan Chand

Vs.

Chiman Lal

(Dr. A.S.Anand CJI., R. C. Lahoti and K. G. Balakrishnan JJ.)

06.08.2001

ORDER

1. Leave granted.

2. The appellant sought eviction of the respondent tenant on the ground that he required the tenanted premises bona fide for his residence as also for the residence of his son. After leave was granted to the respondent tenant to contest the eviction petition, evidence was led by the parties. Learned Additional Rent Controller, on 20-11-1998, dismissed the eviction petition. The revision filed against the order of the Additional Rent Controller came to be rejected by the impugned order. The learned Single Judge of the High Court non-suited the appellant only on the ground that the appellant had "concealed material facts" with regard to allotment of a flat in a cooperative society in favour of his son.

3. From the pleadings filed in this Court, we find that the son of the appellant, namely, Shri Atul Kumar was allotted a flat in Pooja Apartments, Patparganj, Delhi but according to the assertion of the appellant, that allotment had been made to his son after statement of the appellant had been recorded in the eviction proceedings and the possession was also delivered to his son later on. This assertion has not been denied by the respondents. In this fact situation, the appellant could not be accused of concealing any material facts either in the eviction petition or at the time of making a statement because these were subsequent events. In this view of the matter, the High Court clearly fell in error in dismissing the revision petition on the solitary ground of concealing "material facts".

4. The impugned order is accordingly set aside and the revision petition is remanded to the High Court for its fresh disposal on merits in accordance with law.

5. We wish to clarify that we have intentionally refrained from expressing any opinion on the scope of Section 14(1)(e) read with Section 25B of the *Delhi Rent Control Act, 1958* or the effect, if any, of the subsequent allotment of a flat in favour of the son of the landlord, lest it may prejudice the case of either party in the High Court in the revision petition.

6. The appeal succeeds in terms indicated above. The High Court shall expeditiously dispose of the revision petition.

7. There shall be no order as to costs insofar as this appeal is concerned.