

Anoop Singh (Dead) By Lrs
v.
K.N. Garg
(Supreme Court Of India)
C. A. No. 6190 of 2001 | 24-11-2005

1. Heard learned Counsel for the parties.

2. The landlord filed a petition for eviction of the tenant on the ground of bona fide need which was denied. Both the parties had gone to trial and during the pendency of the proceeding, a two-room flat which stood in the name of one of the sons of the landlord was sold. Ground was taken that the need of the landlord cannot be said to be bona fide as the aforesaid house which really belonged to the landlord and not to his son was sold during the pendency of the proceeding. The Rent Controller went into the question, recorded a finding that the two-room flat which was sold as a matter of fact did not belong to son of the landlord but it belonged to him. It further recorded a finding that the flat was not sufficient to meet requirement of the landlord keeping in mind number of the family members. Ultimately, the Rent Controller passed an order of eviction.

3. Challenging the same, a revision petition was filed before the High Court which has reversed the judgment on the sole ground that the landlord had sold two-room flat during the pendency of the proceeding before the Rent Controller, although it has not disturbed finding of the Rent Controller whereby it had found that the two-room flat sold was not sufficient to meet the reasonable requirement of the plaintiff. Challenging the order of the High Court, the present appeal has been filed by special leave.

4. Though various points have been raised by the parties in support of their rival contentions but we find that this appeal is bound to succeed on a short question, as such there is no necessity of referring to other points raised by the parties. The revision petition was filed before the High Court under Sub-section (8) of Section 25-B of the Delhi Rent Control Act, 1958 (for short "the Act") under proviso to Sub-section (8) of Section 25-B of the Act, High Court, in order to satisfy that an order made by the Rent Controller was in accordance with law or not, could examine the matter. The scope of the revision petition filed before the High Court was only to see whether there was any error of law in the order passed by the Rent Controller and it could not reappraise the evidence unless the finding of fact recorded by the Rent Controller was perverse one. In support of his submission, learned Counsel has placed reliance upon a decision of this Court in the case of Sarla Ahuja v. United India Insurance Co. Ltd., reported in VIII (1998) SLT 374=1998 (8) SCC 119, which was a case under proviso to Section 25-B(8) of the Act and in that case, the High Court reversed the order

passed by the Rent Controller after re-appreciating the evidence. This Court set aside the order on the ground that there being nothing to show that the finding recorded by the Rent Controller was perverse one, the High Court was not justified in reversing the same while exercising its powers conferred upon it under proviso to Section 25-B(8) of the Act. In our view, present case is squarely covered by the aforesaid decision of this Court as neither the High Court has come to the conclusion that the finding of fact recorded by the Rent Controller was perverse one nor we are of the view that the same was a perverse one. This being the position, we have no option but to set aside the impugned order.

5. Accordingly, the appeal is allowed, impugned order rendered by the High Court is set aside and the same passed by the Rent Controller is restored. The respondent is granted time till 31st May, 2006 to vacate the premises in question upon furnishing usual undertaking within four weeks from today.