

Delhi High Court Meenakshi vs Ramesh Khanna And Anr. on 16 May, 1995  
 Equivalent citations: 60 (1995) DLT 524, 1995 RLR 322 Author: A Kumar  
 Bench: A Kumar JUDGMENT Arun Kumar, J. (1) Since a short point is involved, with the consent of the parties I have heard this matter in order to dispose of the same. (2) By the impugned order, the Additional Rent Controller has granted leave to contest the eviction petition to the respondents-tenants. The petitioner-landlady has challenged the said order of the Additional Rent Controller by way of present petition. The Additional Rent Controller granted leave to contest the eviction petition mainly on two grounds, i.e. ownership and bonafide need to the petitioner-landlady. (3) Briefly, the facts are that the petitioner is a tenant on the second floor of the property in suit since 1st May, 1978. Previously, Smt. Kamlawati was the owner of the property. She died on 26th March, 1990. The petitioner is the daughter of Smt. Kamlawati and has always been residing in the same property along with her mother. According to the petitioner, she has become the owner of the property in view of a Will of Smt. Kamlawati dated 20th July, 1978. It is a registered Will, certified copy whereof has been placed on record of the Trial Court. The original Will itself was kept in the custody of the Sub-Registrar as is apparent from the endorsement contained on the certified copy of the Will. The property already stands mutated in the name of the petitioner in the records of the Municipal Corporation of Delhi. (4) In his application for leave to contest, the tenant denied the ownership of the petitioner with respect to the property in suit. The tenant went on to deny the fact that the petitioner was the daughter of Smt. Kamlawati. However, the tenant does not say in his application for leave to contest as to who is the owner of the property if the petitioner is not the owner. A reference to the application of the respondent-tenant for leave to contest shows that he admits that Smt. Kamlawati was the previous landlady of the premises. While taking the plea that the petitioner wants to enhance the rent, the respondent in fact indirectly admits that the petitioner is the owner of the property. In para 6, the plea of the respondent is "the only intention of the petitioner is either to get the premises vacated as referred or in the alternative to get the rent enhanced from Rs. 500.00 p.m. onwards and in fact it was also the intention of the deceased landlady Smt. Kamla Wati Bawa when she wanted to get the rent enhanced from Rs. 500.00 p.m. to Rs. 800.00 p.m." This shows that there is an admission that Smt. Kamlawati Bawa was the previous landlady. Further, when the tenant alleges that the intention of the petitioner is to enhance rent or in the alternative to get the premises vacated, there is an indirect admission that the petitioner is the landlady of the premises. In view of this nature of the case of the tenant on the question of ownership of the petitioner, it is clear that the denial of ownership is mala fide and is intended solely to prolong the case. I am of the view that the respondent tenant is taking this plea totally with the mala fide object of protracting the proceedings. I find no substance in such a vague and frivolous plea on the question of ownership of the petitioner. A tenant who has been living in the premises for about twenty years and seen the petitioner living with her mother in the same house on the first floor has gone to the extent of saying that the petitioner is not the daughter of Smt. Kamlawati. This shows the extent

to which the tenant is prepared to go. The tenant seems to be a person having no respect for truth and one who in order to achieve his object is prepared to speak all sorts of lies. (4) Coming to the question of personal bonafide need of the petitioner and her family qua the premises in suit, the number of family members of the petitioner is not denied. The family of the petitioner consists of herself, her husband, two sons, one of whom has got married during the pendency of the petition. The accommodation available with the petitioner on the first floor of the property consists of two bed-rooms, a drawing room Along with kitchen, toilet, W.C. and dining area etc. The petitioner and her husband would require atleast one bed-room while one bedroom is needed for the married son of the petitioner. The third son of the petitioner who is also grown-up also needs a separate bed room. Besides this, the family would need a drawing room. The tenant raises a controversy that by removing a wall between two rooms, the petitioner has carved out a bigger room with an attached toilet. According to the petitioner, the said portion of the first floor has always been like that. Without going into this controversy and assuming that what the tenant was alleging was correct, this hardly requires any evidence to be led. The fact remains that the accommodation available to the petitioner cannot be said to be sufficient even if the bed-room at the back is assumed to be two rooms instead of one. The family of the petitioner is a growing family. The second son of the petitioner is now twenty-one. (5) A lot has been said about the office which the petitioner's elder son has on the ground floor of the premises. According to the tenant, the petitioner concealed this accommodation. In the application for leave to contest when this plea was taken, the petitioner came out with the reply that the office has been made by the elder son of the petitioner who is an Advocate in an improvised accommodation which was earlier a servant's quarter having asbestoses sheets measuring 10 ft. x 10 ft. I do not think that this can be called main fide on the part of the petitioner- landlady. The said accommodation could not be termed as an accommodation meant for residence. The tenant has not alleged or shown that the petitioner has any other residential accommodation except what is available to her on the first floor of the premises. (6) In these circumstances, I do not consider that this was a case for grant of leave to contest to the tenant. Mere denial of ownership of the landlord does not mean that every case must be sent for trial involving years. The Controller has to assess the strength of the case of the tenant regarding denial of ownership of the petitioner. For this, guidelines have already been laid down in various decisions. Mere denial of ownership is no denial at all. It has to be something more. For this, first and foremost thing which has always been considered as a good guide is does the tenant say who else is the owner of the premises if not the petitioner ? In the present case, the tenant does not say anything except denying petitioner's ownership. The tenant is completely silent on this aspect. Merely by saying that the petitioner is not the owner, the tenant is trying to ensure that the case drags on for years for trial. If leave is granted on basis of such vague pleas, it will encourage the tenants to deny ownership of the petitioners in every case. The tenants are well aware that once leave to contest is granted, the cases go on for trial for years. Their purpose is achieved.

Keeping this in mind, the Controllors should rather have positive approach in such matters so as to discourage such vague and frivolous pleas which are most of the time false to the knowledge of persons raising them. (7) The object of the requirement contained in Clause (e) that the petitioner should be the owner of the premises is not to provide an additional ground to the tenant to delay the proceedings by simply denying ownership of the landlord of the premises and thereby putting him to proof by way of full fledged trial. The object seems to be to ensure that the provision is not misused by people having no legal right or interest in the premises. Unfortunately, the Controllors have started misreading the provision which results in converting the proceedings into suits as if they are meant to determine title to property. In proceedings under Section 14(1)(e) of the Act, the tenant is never a contender for title to the property. When the tenant does not even aver that there is any other person having a better title to the property, what is the worth of a plea of denial of ownership of the petitioner ? While dealing with the question of ownership in cases under Section 14(1)(e) of the Act, the Controllors should keep these aspects in mind while considering the application of the tenants for leave to contest. (8) The result is that the impugned order is set aside and the application of the tenant for leave to contest the eviction petition is dismissed. The averments in the eviction petition filed by the petitioner-landlady will be deemed to be correct. An eviction order is passed in favor of the petitioner and against the respondents tenants regarding the tenancy premises comprising of second floor of house No. EA/6, Model Town, Delhi. However, in view of provisions of Section 14(7) of the Act, six months' time is granted to the respondents to vacate the premises. This petition is disposed of. No order as to costs.