

# Narender Anand vs Smt. Kanchan Batra on 7 October, 2021

**Author: Najmi Waziri**

**Bench: Najmi Waziri**

\$~45(1)

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ RC.REV. 151/2021 & CM APPL. 35591/2021  
NARENDER ANAND

Through: Mr. Padam K. Khanna

versus

SMT. KANCHAN BATRA  
Through:

CORAM:  
HON'BLE MR. JUSTICE NAJMI WAZIRI  
ORDER

% 07.10.2021 The hearing was conducted through video conferencing.

1. After some arguments, the learned counsel for the petitioner submits that he does not challenge the eviction order on merits, except that he would like the security amount of Rs.8,00,000/- to be refunded to the petitioner-tenant, in terms of Clause 14 of the registered Lease Agreement dated 21.08.2012 between the parties.

2. The eviction petition was filed under Section 14(D) of the Delhi Rent Control Act, 1958. The impugned eviction order dated 28.07.2021 has dealt with the issue as under:

"...

3. The respondent has filed his affidavit seeking leave to de-fend in the present petition. He has mainly taken two grounds as defence, The first ground is that at the time of the lease of the property, an amount of Rs.8 lakhs was paid by the respondent to the petitioner as security deposit and this amount is still lying with the petitioner and has not been paid back to the respondent. Another ground which has been set up by the respondent as defence is that on 18.10.2012 the respondent had extended a loan of Rs.12 lakhs to the petitioner for interest @ 1% that is Rs.21,000 per month. Both these amounts were paid by the respondent through cheques. The petitioner has failed to pay back the security amount as well as the loan amount. A cheque issued by the petitioner for a sum of Rs.21,000 as payment of interest against the above said loan got dishonoured and despite lapse of the period of two years for which the property was leased out to the respondent, the petitioner has refused to pay the amount of security deposit and loan. The respondent has stated that he is willing to vacate the rented property if the petitioner is ready to pay the above mentioned money back to the respondent. The respondent has also issued a legal notice dated 26.09.2014 to the petitioner

demanding a sum of Rs.25,04,000 with interest. The respondent has also instituted a civil suit bearing number 2224/2016 in order to recover the aforesaid amount and the said suit is pending in the court of Addl District Judge.

....

6. Since the present eviction petition has been filed by the petitioner on the ground of Section 14-D of DRC Act, she has to prove only the following three requirements:

(i) She is a widow;

(ii) She is a landlady:

(iii) She requires the premises for her own residence.

7. In the present case, the respondent has not denied the fact that the petitioner is a widow lady and the property in question was leased out to him by the petitioner. The issues raised by him relating to security amount and loan amount have no bearing upon the subject matter of the present eviction petition. In any case, the respondent has already filed a civil suit for the recovery of these amounts and therefore this fact cannot be set up as a ground for defence to counter the eviction petition. What is required on behalf of a tenant in a leave to defend is that the tenant is able to put forward certain triable issues which require evidence as proof. In order to succeed in obtaining a leave to defend, a tenant is required to show that there is a fair dispute of facts which needs to be investigated and tested by the court on the basis of evidence of both the parties. In the present case, no such dispute with regard to the right of the petitioner to have the suit premises vacated has been set out by the respondent in his affidavit. The respondent has merely dwelt upon the amount which are allegedly recoverable from the petitioner.

8. In the present case, the respondent has failed to raise any triable issue which may disentitle the petitioner to the order of eviction. So far as the issue regarding the recovery of money is concerned, the respondent has already availed the requisite remedy in the alternative forum by filing a civil suit No. 2224 /2016 for recovery of money and therefore this issue is not required to be decided by this court. Otherwise also, the recovery of money being a subject matter of civil nature cannot be decided by the rent controller. The respondent also appears to be acquainted with this state of things and that seems to be why he has not asked for any relief in this respect from this court.

9. Moreover, the respondent has also not refuted the fact that the petitioner along with her daughter and son is residing in a rented accommodation at 46-A, 2nd floor Radhey Puri Extension-1, Delhi-

51. In other words, the petitioner genuinely requires the said property for her own residence and to accommodate her daughter and minor son. The absence of any other suitable accommodation renders the requirement of the petitioner for the rented premises being held by the respondent as bona fide. The respondent has not urged in his affidavit that the petitioner is having any alternative suitable accommodation. He has, as such, raised no real or substantial issue in his affidavit seeking

leave to defend. The Hon'ble Supreme Court in "J. Chatterjee v. Mohinder Kaur Uppal reported in AIR 2000 Supreme Court 3076 has observed that proceedings under Section 14D should not be allowed to be dragged on by granting leave to defend to tenant unless real and substantial case is made out in the affidavit filed by tenant. The Hon'ble Supreme Court in the said judgment has highlighted the intent and import of Section 14D by pointing out that widow landladies are a special class of landlords entitled to recover possession for self occupation.

10. Therefore leave to defend is declined. The respondent is directed to vacate the rented premises bearing No. F-13/15, 2nd floor, Krishna Nagar, Delhi within two months from the passing of this order. Parties to bear their own costs.

"

4. The petitioner had not raised any triable issue. This petition does not challenge the eviction order on merit.

5. This court does not find any reason to entertain the petition.

6. Accordingly, it is dismissed.

7. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J OCTOBER 7, 2021 SS