

Dr Navin Dang And Anr vs Oriental Bank Of Commerce And Ors on 15 December, 2020

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

\$~27

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI
CM (M) 631/2020

DR NAVIN DANG AND ANR.

Through: Mr. Rajiv Nayar, Senior Adv
with Mr. Amit Mahajan, Mr.
Singhvi, Mr. Saurabh Seth,
Seth and Mr. Obhirup Ghosh,
Advocates.

versus

ORIENTAL BANK OF COMMERCE AND ORS. Responden
Through: Mr. Parth Arya, Receiver in

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 15.12.2020

1. This hearing has been done by video conferencing. CM APPL. 32954/2020 (for exemption)
2. Allowed, subject to all just exceptions. Application is disposed of. CM (M) 631/2020 & CM APPL. 32953/2020 (for stay)
3. The present petition has been received on transfer. The case of the Petitioners is that they are the tenants in two shops located on the ground floor of the property bearing no. E-9, Hauz Khas, New Delhi- 110016 (hereinafter, "suit property"). The Petitioners are stated to be running their clinics from the said shops. A petition for eviction, under Section 14(1)(e) of the Delhi Rent Control Act, 1958, filed by the Respondent No.3- Ms. Seema Sharma, is stated to be pending against them, before the Additional Rent Controller.
4. There is a long history, in respect of this premises, which has been set out in the writ. However, for the present purposes, it is sufficient to record that a possession notice has been issued by Mr.

Parth Arya, who has been appointed as the Receiver by the Chief Metropolitan Magistrate (hereinafter, "CMM"), South District, Saket Courts, in the order dated 7th November 2020, titled Oriental Bank of Commerce v. M/S Bhavi Creation. The said notice dated 28th November, 2020 seeks to take possession of the entire ground floor and the first floor of the suit property. It is this possession notice which is under challenge in the present petition.

5. Mr. Rajiv Nayar, ld. Senior counsel appearing for the Petitioners, submits that the ld. CMM has not issued any notice to the tenants under Section 13 of the SARFAESI Act, and hence the Petitioners were not aware of any proceedings filed by the Respondent No.1, in respect of the suit property. It is only through the possession notice which was pasted, that the said proceedings came to the knowledge of the Petitioners. It is further submitted that though the rent is being tendered, neither the landlady nor the banks with whom the suit property is alleged to have been mortgaged, are accepting the same, however, they are ready to tender the same to anyone who is claiming rights in the property.

6. The receiver - Mr. Parth Arya, Advocate, has joined the proceedings upon receiving an advance copy of the petition.

7. Considering the fact that the eviction proceedings are pending before ld. Additional Rent Controller, and have been filed by Ms. Seema Sharma, who is the landlady, the fact that the Petitioners are the tenants in the premises is not in dispute. Accordingly, it is directed that insofar as the two shops which are in the possession of the Petitioners are concerned, the Receiver may take symbolic possession of the same. The Petitioners may, however, continue to operate from the suit property. The Petitioners shall not be dispossessed from the suit property till the next date of hearing.

8. Let notice be issued to the other Respondents, including the Oriental Bank of Commerce, who shall be served through E-mail (mbd@obc.co.in) and to the nominated counsel Mr. Vivek Jain, Advocate through WhatsApp on his Mobile Number (M:9811426480 & 9871863446). Let the process fee, for the same, be filed within ten days.

9. List on 25th January, 2021, before the Roster Bench.

PRATHIBA M. SINGH, J.

DECEMBER 15, 2020 dj/Ak