

Kishan Yadav vs Bhaju Ram Yadav on 26 March, 2025

Author: Manoj Kumar Ohri

Bench: Manoj Kumar Ohri

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision:

+ RC.REV. 95/2017, CM APPLs 8117/2017, 67035/2023, 71560/2

KISHAN YADAV

Through: Mr. Dilip Kumar Mishra,
with petitioner in pers

versus

BHAJU RAM YADAV

Through: Mr. Gulab Chandra Yadav
Mr. Sonal Sinha, Advoca
Curiae).

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present petition, filed under Section 25B (8) of the Delhi Rent Control Act 1958 (hereinafter, referred to as 'DRC Act'), the petitioner/tenant has assailed the order dated 11.08.2016 passed by ACJ- cum-CJ-ARC, North Rohini, Delhi in Eviction case no. 138/16 titled as 'Shri Bhaju Ram Yadav versus Shri Krishan Yadav'.

Vide the impugned order/judgement, the petitioner's leave to defend application came to be dismissed and the eviction order was passed in the favour of the respondent/landlord in relation to property being Jhuggi No. 7B/59-A, Plot No. A-53, Shaheed Sukhdev Nagar, Industrial Area, Wazirpur, Delhi-110052 (hereinafter, referred to as 'subject premises').

2. In the eviction petition, the respondent-landlord, claimed that he had a bona fide requirement of the said premises for residential purposes to live alongwith his family as the one room available to him was insufficient to accommodate his family, forcing his wife and children to reside in the native village due to a lack of suitable accommodation and that he wanted to educate his children in Delhi. In his leave to defend application, the petitioner/tenant did not dispute the ownership or landlord-tenant relationship, however, he contended that there were alternate suitable accommodation available to the respondent.

Against this backdrop, the Trial Court heard both sides and passed the impugned eviction order after dismissing the application for leave to defend for want of any triable issue.

3. Before this Court, learned counsel for the petitioner/tenant has disputed the ownership of the respondent/landlord. It is submitted that the petitioner was, in fact, alongwith the respondent, the co-owner of the subject premises, and had paid 50% of the consideration amount to the erstwhile owner. It is submitted that he was wrongly described as a tenant in the earlier proceedings by his counsel and being an illiterate person, he was not aware of the same. It is further submitted that the respondent has transferred ownership of the said property to a third party and therefore, does not have any right, title, or interest in the property. It is also submitted that in light of the above argument, the respondent's claim of bona fide requirement of the said premises is invalid, as such a requirement can only be asserted by the legal owner of the property. In support of this contention, the petitioner has placed on record a copy of an electricity bill issued to one Mr. Dinesh Mandal which according to the petitioner demonstrates that the respondent is no longer the owner of the subject property.

4. Learned counsel for the respondent, on the other hand, while defending the impugned eviction order, has contended that the revision petition is devoid of merit, and as such, ought to be dismissed inasmuch as the petitioner has taken two inconsistent pleas regarding the subject property. While in the present petition, he is claiming himself to be the co- owner of the subject premises alongwith the respondent, in Civil Suit No. 875/2009 as well as the leave to defend application, the petitioner has admitted himself to be a tenant of the respondent since 1999 in the subject premises. It is further submitted that no documentary proof establishing the so called co-ownership of the petitioner has been ever produced, neither before the Rent Controller, nor in the aforesaid civil suit. Furthermore, it is contended that mere electricity bills are not proof of ownership and nothing substantial has been shown to prove that the respondent has transferred his ownership. Lastly, it is submitted that the bona fide requirement of the subject premises by the respondent was duly demonstrated before the Rent Controller, considering which the impugned eviction order has been passed.

5. The law as regards challenge to ownership of a landlord at the stage of considering an application for leave to defend is no longer res integra. It has been held in catena of judgments held that what has to be considered as ownership vis-à-vis a tenant is someone who had a better title than the tenant. Furthermore, even if there is such an issue that arises, it is a question which should be decided in appropriate proceedings and the same is not available for the tenant as a defence in the proceedings under Section 14(1)(e) of D.R.C. Act. [Ref: Smt. Shanti Sharma v. Ved Prabha¹, Sh.

(1987) 4 SCC 193 Bharat Bhushan Vij Vs. Arti Teckchandani² and Rajender Kumar Sharma Vs. Smt. Leela Wati³] On the aspect of bona fide need, as set out in the eviction petition, the need is for the residence of the respondent and his family. In this respect, it is well settled that the tenant cannot dictate to the landlord how much space is adequate for the landlord or how best to use the tenanted premises or even to adjust in some other premises. [Ref: Sarla Ahuja Vs Union of India⁴]

6. Pertinently, in the application seeking leave to defend, the petitioner has admitted that the respondent is the owner of the subject premises. It has further been admitted that there existed a landlord-tenant relationship and that the petitioner paid rent @Rs. 250 per month. The petitioner has further claimed that the respondent let out another room to someone else and that the respondent had another plot in Prem Nagar, Nangloi and a flat in Rohini.

The respondent, in his reply to the leave to defend application, categorically denied having any such other property and further claimed that the rent paid by the petitioner was Rs. 1200/- and not Rs. 250/- per month. In so far as the bona fide need of the respondent is concerned, the petitioner has not made any specific averments to question the same. The petitioner has rather, in the rejoinder to the reply to the leave to defend, admitted that the children of the respondent were residing in the native village for the last 7-8 years.

7. A perusal of the records would show that the petitioner has taken two contradictory stands. On one hand, in his leave to defend application, he has 2008 (153) DLT 247 2008 SCC OnLine Del 1085 (1998) 8 SCC 119 admitted to being a tenant in the subject premises. Here, for the first time, a contrarian stand has been taken that he is in fact a co-owner of the premises along with the respondent and was wrongly advised by his previous counsel. However, no document has been produced by him to establish such ownership. He claims to have paid 50% of the consideration amount, but again, no receipt evidencing the same has been produced. As noted above, in the leave to defend application, the ownership of the respondent has not been disputed. Interestingly, another new stand has been taken in this revision petition by contending that the respondent is no longer the owner of the premises and in this regard, reference is made to a copy of electricity bill of the subject premises in the name of a third party. However, the mere production of one such bill does not establish or confer ownership. Hence, this Court is of the considered opinion that the petitioner's altered stand thereby denying the existence of ownership and landlord-tenant relationship between the parties is vague at best and does not raise any triable issues.

8. In light of the aforesaid facts and circumstances, I do not find any merit in the instant petition and the same is accordingly dismissed, alongwith pending applications.

MANOJ KUMAR OHRI (JUDGE) MARCH 26, 2025/rd (corrected and released on 08.04.2025)