

Nathu Lal & Ors. vs Shazia Ahmad on 26 March, 2025

Author: Manoj Kumar Ohri

Bench: Manoj Kumar Ohri

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 26.03.2025

+ RC.REV. 155/2022, CM APPL. 39218/2023

NATHU LAL & ORS. Petitioners
Through: Mr. Vishwa Aman Kandwal and Mr.
Subhash Baghel, Advocates..

Versus

SHAZIA AHMAD Respondent
Through: Mr. Sumit Kumar Khatri, Mr. Pawan
Kumar and Mr. Parv Passi,
Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present revision petition filed under Section 25-B (8) of the Delhi Rent Control Act 1958 (hereinafter, referred to as 'DRC Act'), the petitioners seek to assail the order/judgement dated 07.04.2022 passed by CCJ-cum-ARC, Tis Hazari Courts, Central District, in RC ARC 81/2019, titled as 'Smt. Shazia Ahmad vs. Sh Nathu Lal & Ors.' Vide the impugned order/judgement, the learned ARC dismissed the petitioner-tenant's application for grant of leave to defend and an eviction order came to be passed in favour of the respondent-landlord and against the petitioners, in relation to premises bearing No.10337, measuring 43.48 sq. ft., consisting of ground floor and first floor with its roof rights situated at Bagichi Peerji, Ram Bagh Road, Subzi Mandi, Delhi (hereinafter, referred to RC.REV. 155/2022 PageDigitally as 'subject premises').

2. In the eviction petition, the respondent-landlord, claimed that she had a bona fide requirement of the said premises for residential purposes to live alongwith her husband and four children (three at the time of filing of the eviction petition) as she is currently living in one-room premises at 7015, Beriwalan Bagh, Azad Nagar, Delhi-110006 on the mercy of her in-laws, while the petitioner enjoys the subject premises comprising of four rooms.

3. Briefly stated, the facts of the present case are that the respondent had purchased the subject premises from one Sh. Shahid Ahmad Ferozie by virtue of a registered Sale Deed dated 05.09.2013. It is the petitioner's case that the erstwhile owner, i.e., Sh. Shahid Ahmad Ferozie had let out the

subject premises to the father of the petitioners, Sh. Rewar Ram (now deceased). The factum of the transfer through the aforesaid Sale Deed was informed to the tenant by the erstwhile owner vide Attornment Letter dated 05.09.2013.

4. Before this Court, the petitioners challenge the ownership of the respondent over the subject premises as well as the existence of landlord-tenant relationship between the parties. In support of his contention, learned counsel for the petitioners submits that firstly, as is the respondent's own case, no rent was ever paid by the petitioners to the respondent. Reference is made to paragraph 2 of the impugned order wherein the ARC has noted the same. Secondly, while relying on North MCD records, as placed on record before the ARC, it is submitted that the petitioners are the independent assesseees of the property tax in North MCD, Delhi, and that the respondent never got the subject premises mutated in her name in the revenue records. Thirdly, it is contended that the title of the erstwhile owner, Sh. Shahid RC.REV. 155/2022 PageDigitally Ahmad Ferozie himself is under dispute in various judicial proceedings and thus, better title regarding the subject premises could not have been transferred to the respondent in the first place and that she therefore cannot claim absolute ownership over the subject premises. To dispute the ownership, reliance is placed on a judgment in parallel proceedings titled as 'Lai Chand vs. Begum Jaan, in RSA No. 40/77, wherein this Court held that Mst. Begum Jaan, late grandmother of Sh. Shahid Ahmed Ferozie, had never succeeded to title of the entire area wherein the subject premises is located.

5. Per contra, the respondent defends the impugned order/judgment and contends that the petitioners have themselves admitted that their father was a tenant of the erstwhile owner, Sh. Shahid Ahmad Ferozie and that he also used to pay rent for the subject premises. To substantiate the same, reliance is placed on receipt No. 7179 dated 24.10.1999 for the period of July 1995 to September 1999 and receipt No. 8927 dated 14.07.2001 for the period of October 1999 to June 2001, which were placed on record before the Rent Controller. It is also submitted that the execution of registered Sale Deed dated 05.09.2013 was admitted by the petitioners before the Rent Controller as well. The Court's attention is also drawn to the copy of the Rent Note dated 29.09.1969 filed before the ARC, wherein the father of the respondents had admitted to paying rent regarding the subject premises. As regards ownership, it is further stated that the issue already stands decided in favour of the respondent in order dated 04.10.2018 in eviction petition No. E-72/2018.

6. I have heard both the learned counsels for the parties and perused the material on record.

7. The two primary contentions raised by the petitioners in order to RC.REV. 155/2022 PageDigitally establish triable issues is regarding ownership and landlord-tenant relationship. Notably, neither do the petitioners claim or put forth any contentions on availability of alternate accommodation, much less justify the adequacy of the present accommodation wherein the respondent currently resides with her family, nor is bona fide need rebutted except with vague denials.

Rather, the petitioners contend that the respondent is not the absolute owner of the subject premises. However, it is a settled position in law that in eviction proceedings, the landlord is not required to prove absolute ownership but simply has to show himself to be more than a tenant. The

imperfection of title does not stand in the way of an eviction petition filed under Section 14(1)(e) of the DRC Act.¹

8. As regards landlord-tenant relationship, the petitioners did not dispute their father being a tenant to the erstwhile owner. As pointed out in the reply to the leave to defend, admittedly the father of the petitioners paid rent to the erstwhile owner, and rent receipts dated 24.10.1999 and 14.07.2001 have also been placed on record. Pertinently, the signatures on the said receipts have not been denied. Even the Attornment Letter dated 05.09.2013 informing the tenants of the transfer of subject premises and directing the then tenant (predecessor-in-interest to the petitioners herein/their father) to pay future rent to the respondent herein, was not challenged. Moreover, in the rent note dated 19.09.1969 executed by father of the petitioners, he himself had admitted to paying rent to the erstwhile owner. Though the Smt. Shanti Sharma & Ors vs Smt. Ved Prabha & Ors, reported as 1987 (4) SCC 193; Rajender Kumar Sharma v. Leela Wati, reported as 2008 SCC OnLine Del 1085; Ramesh Chand v. Uganti Devi, reported as 157 (2009) DLT 450 and Vinod Kumar Verma v. Manmohan Verma, reported as 2008 SCC OnLine Del

265.

RC.REV. 155/2022 PageDigitally petitioners sought to rely on averments in the Rejoinder that was filed before ARC, however, it is informed that the same was never taken on record as the petitioners had failed to pay the costs, and thus, does not form part of the Trial Court Record. Hence, the denial of existence of landlord-tenant relationship between the parties is vague at best and does not raise any triable issues.

9. 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 application.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 26, 2025/ik

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