

(1998) 10 DEL CK 0085

Delhi High Court

Case No: C.R. No. 962 of 1995

Gurdial Singh

APPELLANT

Vs

Raghubir Singh

RESPONDENT

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**Date of Decision:** Oct. 28, 1998**Acts Referred:**

- Delhi Rent Control Act, 1958 - Section 14(1)

**Citation:** (1998) 76 DLT 515 : (1998) 47 DRJ 670**Hon'ble Judges:** Chander Mohan Nayar, J**Bench:** Single Bench**Final Decision:** Allowed

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**Judgement**

C.M. Nayar, J.

The matter was listed for hearing on October 27, 1998 and October 28, 1998 respectively. The petitioner who appears in person has made his submissions. There is no appearance on behalf of the respondent on both the dates.

2. The present petition is directed against the judgment dated October 10, 1995 passed by Dr. R.K. Yadav, Additional Rent Controller, Delhi by which an eviction petition of the petitioner u/s 14(1)(e) of the Delhi Rent Control Act, 1958 (hereinafter referred to as "the Act") was dismissed.

3. The brief facts of the case are that the petitioner is the owner/landlord of the first floor of premises known as A-88, Inderpuri, New Delhi which was let out to the respondent for residential purposes and the suit premises are required by him bona fide for the residence of the family. The petitioner is alleged to have a tenanted property at 111/102, Church Road, Delhi Cantt, Delhi and it is stated that the same is insufficient as the petitioner wants to separate his married son and daughter-in-law who is unable to adjust with his wife. The family of the petitioner comprises of himself, his wife, two married sons, Daljit Singh and Udham Singh who also have two children each aged 24 and 21 years and 16 and 10 years respectively. There are

three married daughters who visit the petitioner and some times stay with him. The petitioner states that he has no other accommodation to accommodate one of his sons Daljit Singh and his family and requires the tenanted premises for his bona fide need as well as for the family members who are dependent on him.

4. The learned Additional Rent Controller assessed the requirement of the petitioner and came to the following conclusion in paragraphs 11 and 12 of the judgment which read as follows:

"11. Thus, out of the above pleadings, it is apparent that the petitioner presents his claim for eviction of the respondent out of the demised premises, since according to him the premises are required to accommodate his son Udham Singh, his wife and his child. This fact is further corroborated by the petitioner through his testimony wherein he has deposed that he wants to shift his son Udham Singh with his family to In-der Inderpuri. puri. His son Udham Singh is married and have one son and wife. His (petitioner's) wife and daughter-in-law are having strained relations. His son Udham Singh and his family is dependent upon him for the purpose of residence. He need the premises for bonafide need of his son Udham Singh and his family. The above depositions of the petitioner coupled with the pleadings narrated above bring the case of the petitioner in water tight compartment to the effect that the demised premises were needed by the petitioner for residence of his son Udham Singh and his family.

12. Could the need of the petitioner remained unsatisfied when ground floor accommodation of the premises No. A-88 Inderpuri, New Delhi was acquired by him in the year 1992? As detailed above the petitioner admits that ground floor portion consisting of two bed rooms, one drawing-cum-dining room besides kitchen and bathroom was occupied by him after its vacation by Punjab National Bank. The petitioner admits in his cross-examination that he had filed petition for bonafide need of the gerund floor accommodation of House No. A-88, Inderpuri, New Delhi against Punjab National Bank. He also admits that the said petition for eviction of Punjab National Bank was filed by him on the ground that the premises in occupation of Punjab National Bank were required for residential need of his son Udham Singh. As per own case of the petitioner, family of Udham Singh consists of Udham Singh himself, his wife and two children aged 13 years and 7 years. Premises which came into occupation of the petitioner at the ground floor of House No. A-88 Inderpuri, New Delhi consists of two bed rooms, one drawing-cum-dining besides kitchen and bathroom. Udham Singh and his wife requires one bed room. Other bed room can be used by his two sons aged 13 and 7 years respectively. Drawing-cum-dining room is also there with the family to meet their requirements. Therefore, accommodation which came in possession of the petitioner in the year 1992 is more than sufficient to meet the residential need of Udham Singh and his family. On objective and careful assessment of the need of the petitioner for residence of Sh. Udhum Singh and his family, I am of the considered opinion that

the said need stood satisfied in the year 1992 itself. The petitioner attempted to explain that the ground floor portion so vacated by Punjab National Bank was occupied by his elder son. When present petition as well as petition against Punjab National Bank was filed for the need of residence of Sh. Udham Singh, now it does not He in the mouth of the petitioner that the ground floor accommodation of House No. A 88, Inderpuri, New Delhi is occupied by his elder son."

5. In paragraph 13 it is stated that the ground floor portion of the premises came into possession of the petitioner which undoubtedly brought change in the state of affairs which existed at the time of institution of the present petition and the subsequent events have to be taken into consideration torn the purpose of finding out whether the landlord still requires the demised premises. In view of this, the Additional Rent Controller dismissed the petition as infructuous primarily on the ground that the ground floor had come in his possession during the pendency of the eviction petition.

6. The petitioner is 82 years of age and so is his wife. They have two grown up sons Daljit Singh and Udham Singh who are married and have their respective wives and children to care. One of the sons of the petitioner Daljit Singh is stated to be presently living with his parents on the ground floor of the premises as they are old and require his assistance. The other son and his family are accommodated in the tenanted property known as 111/102 Church Road, Delhi Cantt. The petitioner also has three married daughters who visit the family and in this background it cannot be said that the accommodation in possession of the petitioner is sufficient and their requirement is not bona fide. The petitioner and his family do not possess any other reasonably alternative accommodation which can be considered suitable for the residence of the petitioner and his family members. The need of the married daughters and their respective families cannot be ignored as they often come and stay with their parents as and when the opportunity arises and such visits cannot be termed abnormal particularly when the parents have grown old and require the assistance of their family members.

7. The petitioner is owner of the property Which is admittedly let out for residential purposes and in the facts and circumstances of the case, as stated above, it cannot be said that the requirement of the petitioner and his family dependent upon him is not genuine or bona fide. There is no availability of any other reasonably suitable accommodation which can accommodate the petitioner and his family. The ingredients as contained in Section 14(1)(e) of the Act are clearly satisfied and the petitioner is entitled to an order of eviction as the Additional Rent Controller has clearly misdirected himself and committed a material irregularity in basing his findings solely on the ground that the petition became infructuous as the petitioner acquired vacant possession of the ground floor premises of the same property. The landlord is the sole judge of his requirement and taking into consideration the ages of the petitioner and his wife and size of the family it cannot be said that the need

and requirement is fake and fanciful.

8. For the reasons stated above, the present petition is allowed and the Order dated October 10,1995 passed by the Additional Rent Controller is set aside. A decree of eviction is passed in respect of the tenanted premises in property No. A-88, Inderpuri, New Delhi. The decree, however, shall not be executable before the expiry of period of six months from the date of this Order. There will be no order as to costs.