

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9378 OF 2014
(Arising out of SLP (Civil) No. 37274/2012)

SHANTI DEVI

...Appellant

Versus

RAJESH KUMAR JAIN & ANR.
..Respondents

ORDER

R. BANUMATHI, J.

Leave granted.

2. In this appeal, short question falling for consideration is whether the appellant be granted leave to defend the eviction petition filed by the respondents-landlords.

3. Appellant is a tenant in respect of shop premises situated on the ground floor of a property No. 6157, Partap

Street, Behind Kothi Bhagwan Dass, Gandhi Nagar, Delhi -110031 since 1988. The appellant has been engaged in carrying on her business (Disco Hair Dresser) in the said premises. The respondents-landlords filed an eviction petition under Section 14 (1) (e) of Delhi Rent Control Act (DRC Act) against the appellant, *inter alia*, on the ground of bonafide requirement to open office-cum-display counter on the main road side to expand their business of cosmetic unit. The appellant filed application under Section 25B (5) of DRC Act read with Section 151 CPC seeking leave to defend the eviction petition. The appellant raised the plea that there is no bonafide requirement and that the respondents have alternative accommodation. The Addl. Rent Controller, Karkardooma Court, Delhi dismissed the application of the appellant-tenant on the ground that the appellant has failed to raise any triable issue. Being aggrieved, the appellant filed revision petition before the High Court under subsection (8) of Section 25B of DRC Act and the same was dismissed. Hence, this appeal by special leave.

4. We have heard counsel for the appearing parties. Learned counsel for respondents contended that the landlords needed the property in question to expand their business, as the space currently available to them is insufficient. It was submitted that the appellant-tenant owned another property, along with her husband in the same locality, where she could shift her business. The appellant-tenant denied the issues raised by the respondents-landlords with respect to having alternative accommodations.

5. We are not inclined to go into the merits of rival contentions, lest, it would amount to expression of views on the merits of the matter. In the facts and circumstances of the case, we are of the view, that the appellant has raised a triable issue, in the sense, that there is a fair dispute to be tried in the eviction petition and the appellant be granted leave to defend. However, leave to defend could be granted to the appellant only conditionally. When the revision petition was pending before the High Court, the appellant agreed to pay to the landlords rent at the rate of Rs.3,000/- per month and the same could be continued.

6. The impugned order of the High Court in Revision Petition No. 347/2011 is set aside and the appeal is allowed. The appellant shall file her reply statement before the Addl. Rent Controller, Karkardooma Court, Delhi within four weeks from today and the learned Addl. Rent Controller shall afford sufficient opportunity to both the parties and proceed with the matter in accordance with law and dispose of the same preferably within a period of six months from the date of receipt of copy of this Order. Till the disposal of the eviction petition, the appellant shall continue to pay rent at the rate of Rs.3,000/- per month on or before 7th of each succeeding English calendar month. No costs.

JUDGMENTJ
(T.S. Thakur)

.....J
(R. Banumathi)

New Delhi;
October 9, 2014