

Kulwant Singh and Others

Vs

Smt. Amar Kaur and Others

Civil Appeal No. 178 of 1982 in Special Leave Petition (Civil) No. 11080 of 1981

(D. A. Desai, A. Varadarajan JJ)

14.01.1982

JUDGMENT

1. We have heard Mr R.K. Garg, learned counsel for the appellants and Mr G.L. Rawal, learned counsel for respondents. On an earlier occasions it was contended that the appellants have not deposited arrears of rent and are defaulters in a huge amount. Before extending any consideration to the appellants we wanted to be satisfied that appellants have paid or deposited rent in arrears. We are assured today by an affidavit of Tej Singh s/o Damodar Singh that the appellants have deposited balance arrears of rent till today in the court of D.S. Sidhu, Additional Rent Controller, Delhi. A photostat of treasury challan is annexed to this affidavit which shows that the appellants have deposited Rs 8400. We requested Mr Rawal learned counsel for the respondents to check up this fact and after hearing him we have proceeded on the assumption that according to the affidavit all the arrears have been cleared out by making necessary deposit, but this deposit is accepted subject to the contentions in a cognate matter between the same parties. Any observation herein made is to have no impact on the dispute in the cognate matter and the parties will be at liberty to get that question adjudicated on proper evidence before the court before which the proceedings are pending unhampered by anything stated in this order.

2. This petition, out of which the present appeal arises, is confined to the request of the respondents-landlords seeking eviction on the ground that they need the premises reasonably and bona fide for personal use and occupation. Inter alia the appellants-tenants sought leave to defend the action on the plea that the suit premises were let out both for residential and commercial purposes and therefore landlords would not be entitled to recover possession on the ground of personal requirement in view of the provisions of Delhi Rent Control Act. The Rent Controller declined to grant leave on a prima facie finding culled out from affidavits that the dominant purpose of letting was residential. High Court dismissed revision petition in limine by a brief speaking order which hardly touches the core problem raised in between the parties. We are of the opinion that looking to rival contentions it was a fit case where leave to defend ought to have been granted. We accordingly allow this appeal, set aside the order of the Rent Controller and High Court and grant leave to defend to the tenant. The parties are directed to appear before V.B. Gupta, V Additional Rent Controller, Delhi on January 25, 1982. The Rent Controller will decide whether the requirement of landlord is bona fide and whether tenant proves that the purpose of letting was both residential and commercial and therefore the landlords would not be entitled to maintain an action on the ground of personal requirement after giving an opportunity to the defendants-tenants to file their written statement. We allow the appeal in terms indicated above with no order as to costs. In view of the fact that landlord seeks possession on the ground of personal requirement and further leave to defend is being granted at this stage, it is just and proper that the matter should be disposed of as expeditiously as possible and not later than three months from today. No order as to costs.

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