

Punjab National Bank

Vs

Arjun Dev Arora and Others

Civil Appeal No. 4305 of 1984

(V. Khalid, Ranganath Misra JJ)

07.11.1986

JUDGMENT

RANGANATH MISRA, J. -

1. Punjab National Bank is in appeal by special leave challenging the order of eviction from a tenanted premises. That order by the Rent Controller has been upheld in appeal by the Tribunal and the High Court has refused to interfere.

2. Eviction had been asked under Section 14(1)(k) of the Delhi Rent Control Act on the basis that the appellant as tenant had taken the premises for residential purpose but had put it to non-residential use. The Delhi Development Authority raised objection on the ground of change of user and had proceeded to raise penalty. The Controller dismissed the application but the Tribunal reversed that decision and passed an order directing eviction of the appellant.

3. At the hearing of the appeal we had a feeling that the respondent wanted higher rent and that was the real motive for asking for eviction. When a settlement by way of enhancement of rent was suggested, the bank agreed to enhance the rent but left the fixation of the sum to the discretion of the court. Taking into account the location of the property, prevailing rate of rental in the local area for comparable premises and the fact that the property had been taken for residential use but has been put into commercial use, we suggested fixation of monthly rent at Rs. 6000 and after obtaining instructions, the appellant's counsel has agreed to the rate of rent being enhanced to Rs. 6000 per month with effect from October 1, 1986. We accordingly allow the appeal, set aside the order of eviction passed by the Tribunal and dismiss the application for eviction. The respondent-landlord shall be entitled to be paid rent at the rate of Rs. 6000 per month from October 1, 1986.

4. Reliance had been placed on a decision of the Delhi High Court in Daljit Singh Madan v. Surinder Kumar [(1984) 25 DLT 313(Del)], where a similar question arose for consideration. The lease was for residential use but the same had been put to commercial use. The court held that it was open to the Controller to fix the penalty for wrongful user and as long as the penalty continued to be paid the deviation of user could be permitted. We see no reason to take a different view. We, therefore, direct the Controller to fix the quantum of penalty after hearing counsel for parties and the Delhi Development Authority. When such penalty is quantified, the same would also be a liability which the appellant is to meet. Parties are directed to bear their own costs.

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