Inder Mohan Lal

Vs

Ramesh Khanna

Civil Appeal No. 468 of 1987

(O. Chinnappa Reddy, M. H. Kania, K. Jagannatha Shetty JJ)

(O. Chinnappa Reddy, K. Jagannatha Sehtty JJ)

(Sabyasachi Mukharji, S. Natarajan JJ)

04.08.1987

JUDGMENT

SABYASACHI MUKHARJI, J. -

1. This appeal by special leave is from the judgment and order of the High Court of Delhi dated July 15, 1976 before the Rent Controller to let out the premises for a period of two years under Section 21 of the Delhi Rent Control Act, 1958 (hereinafter called 'the Rent Act'). The Rent Controller after recording the statements of the appellant and the respondent made an order permitting creation of limited tenancy only for a period of two years for residential purposes to which the respondent had agreed upon. It may be material to refer to the fact that the appellant in his application under Section 21 of the Rent had stated as follows :

> I do not require the premises for a period of two years from July 15, 1976. The purpose of letting shall be residential only and the premises are shown in the site plan Ex. A-1. The proposed agreement is Ex. A-2. Limited tenancy under Section 21 of the Act may be allowed to be created for the said period.

2. The respondent agreed to the aforesaid statement and stated as follows :

> I have heard the statement of the petitioner and I accept it as correct. I have no objection. I shall vacate the premises after the expiry of two years from July 15, 1976. The purpose of letting shall be residential only.

3. Upon this the Rent Controller passed the following order :

This is an application filed under Section 21 of the Act for permission to create limited tenancy for a period of two years from July 15, 1976. The purpose of letting shall be residential only and the premises is shown in the site plan Ex. A-1. The proposed agreement is Ex. A-2. From the perusal of the statements of the parties I am satisfied that as at present the petitioner does not require the premises. Therefore, limited tenancy is allowed to be created for a period of two years from July 15, 1976.

4. The appellant filed an application on November 6, 1978 for eviction of the respondent as the respondent had refused to vacate the premises in spite of his statement made before the Rent

Controller. The appellant filed an application on the said date under Section 21 of the Rent Act on behalf of himself and his family members claiming possession of the premises for their bona fide need and use. The appellant contended that he (the appellant) was a retired official and was living in a rented house while the respondent was a rich man doing business in jewellery and was also owning a house in Delhi. In the application made under Section 21 of the Rent Act the appellant had stated that the appellant owned a newly built house in the New Friends Colony comprising of dining, drawing, three bedrooms with attached bathrooms, a study room, family lounge and a garage. The appellant had further stated that he did not require the premises for personal residence for a period of two years. The appellant had also stated in that application, that the appellant had agreed to let it out to the respondent for the first time on the terms and conditions set out in the proposed lease deed for a period of two years. It was stated that the respondent had heard the statement and recorded that he had no objection and would vacate the premises after expiry of two years. Subsequently, when the second appeal was pending in the Delhi High Court, the appellant had filed an application for early hearing in which he had stated that when the construction of the house in question was completed the appellant's father R. B. Nanak Chand, advocate, was old alone (the appellant's mother had died earlier and other brother and sister being away from Delhi) and in view of his father's ailing health the appellant was living with him in the rented premises at 4 Flag Staff Road, Delhi to look after his old and ailing father. It was in those circumstances that the appellant had decided to let out the suit premises for a limited period of two years only. It may be mentioned that the appellant's father died two months after the Rent Controller had granted permission.

5. The Rent Controller after hearing both the parties on January 4, 1980 held, rejecting the contention of the respondent, that Section 21 of the Rent Act was not ultra vires. Furthermore, he was satisfied that a limited tenancy had been created and as such he granted permission for eviction. Aggrieved by the aforesaid order the respondent preferred an appeal to the Rent Control Appellate Tribunal. The Rent Control Tribunal upheld the eviction order.

6. On or about July 19, 1985, being further aggrieved, the respondent preferred a second appeal before the High Court of Delhi. The High Court of Delhi by the impugned judgment allowed the appeal on the ground that there was no ground stated in the application under Section 21 of the Rent Act as to why a limited tenancy was intended to be made. The High Court held that the order under Section 21 of the Rent Act was a mindless order inasmuch as the respondent before it had not disclosed as to how the demised premises were being dealt with before creating the alleged tenancy and why the respondent before it did not require the demised premises for the alleged period of two years and as to why the same would be required by him after period of two years.

7. The High Court relying on the decision in the case of S. B. Noronah v. Prem Kumari Khanna ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193), held that the order in question in this case was a mindless order and in that view of the matter the order passed under Section 21 of the Rent Act was not valid. The High Court was of the view that there was no inquiry for the Controller to come to the conclusion on the basis of the material that the premises for which the permission was sought for creating a limited tenancy was in fact available for being let for a limited period only and in the absence of that, this was a mindless order.

8. The appellant has come up in appeal before this Court from the said decision.

9. The question, therefore, that arises for consideration of this Court is whether in view of the requirements of section 21 of the Rent Act, was the permission invalid ? The main points upon

which the High Court has relied are : firstly, on the materials put forward before the Rent Controller for sanction under Section 21 of the Rent Act, no reason had been stated as to why the premises in question was not required for a limited period; secondly, it was not stated as to how the premises in question was dealt with; thirdly, the High Court was of the view that there was no writing and no lease registered after the permission was granted. So for as the second ground, namely, as to how the premises in question was dealt with prior to the letting out in the instant case, the High Court was obviously and factually incorrect. It was stated in the application for permission that it was agreed to let out 'for the first time' and secondly, it was stated that the appellant owned a 'newly built house'. Therefore two facts were clearly stated namely, this was a 'newly built' premises and further that there was no prior letting. In the aforesaid facts circumstances of the case therefore, it cannot be denied that how the premises in question was dealt with before the letting out had been clearly stated.

10. It is true, however, that why the premises in question was stated by the appellant not to be required for a limited period had not been 'specifically' stated at the time of seeking permission under Section 21 by the appellant. The appellant had stated that he did not require the premises in question for a period of two years. He had not stated as to why he not require the said premises for the said limited period of two years. The question therefore is was it necessary to seek a valid order under section 21 to state that reason and if permission was granted on satisfaction of the Rent Controller on other conditions without being satisfied as to why the landlord did not require the premises in dispute for a limited period, the order would suffer from the vice of being a mindless order. Such an order if otherwise the conditions are satisfied would not be an invalid order. In order to determine that question it is necessary to bear in mind the parameters and the purposes of Section 21 of the Rent Act. The Delhi Rent Control Act like other rent control legislations had been passed to provide for the control of rent and eviction. The Rent Acts all over the country came in the wake of partition and explosion of population in metropolitan and new urban cities. There are acute shortages of accommodation. Very often these shortages and the demand for accommodation led to rack-renting as well as unreasonable eviction of tenants. To meet that situation and to facilitate proper letting the Rent Acts were passed all over the country ensuring fair returns to the landlords and giving the landlords the right of eviction for limited purposes and at the same time protecting the tenant from unreasonable eviction by the landlords. This led to a series of litigations leading to long delays resulting specially in metropolitan cities like Delhi, Calcutta and Bombay in reluctance of many landowners who had vacant premises for letting out only for limited period either because of the family conditions or official commitments as they did not require the premises immediately and at the same time who were reluctant to part with the said premises on rent because of the long delay and the procedure that had to be followed to recover possession of those premises.

11. Section 21 of the Rent Act was an attempt to meet that reluctance. Section 14 of the Rent Act controls the eviction of tenants and giver protection to the tenants against eviction. It stipulates that notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant unless certain specified conditions were fulfilled. Those conditions were laid down in different sections and provisos thereof. It is not necessary to set these out in detail. As mentioned hereinbefore that led to good deal of reluctance on the part of the landlords to part with the possession of the premises in their occupation because of the time and expenses consuming process involved for recovery of possession. In order, therefore, to induce reluctant/potential landlords to create tenancies, Section 21 was enacted for the capital city of Delhi. This is a new provision - the unique provision made for the metropolitan city of Delhi. Section 21 of the Rent Act reads as follows :

21. Where a landlord does not require the whole or any part of any premises for a particular period, and the landlord, after obtaining the permission of the Controller in the prescribed manner, lets the whole of the premises of part thereof as a residence for such period as may be agreed to in writing between the landlord and the tenant and the tenant does not, on the expiry of the said period, vacate such premises, then, notwithstanding anything contained in Section 14 or in any other law, the Controller may, on an application made to him in this behalf by the landlord within such time as may be prescribed, place the landlord in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

12. An analysis of this section makes it clear that in order to attract Section 21, the first condition is that the landlord does not require the whole or part of any premises for a particular period. If that condition is fulfilled then the said landlord after obtaining the permission of the Controller in the prescribed manner lets the whole of the premises or part thereof as a residence for such period as may be agreed to in writing between the landlord and the tenant and the tenant does not on the expiry of the said period, vacate such premises, then notwithstanding anything contained in Section 14 or in any other law, the Controller may, on an application made to him in this behalf by the landlord within such time as may be prescribed, order the eviction of the tenant. Therefore the first condition must be that the landlord must not require the premises either in whole or part of any premises for a particular period. Secondly, the landlord must obtain the permission of the Controller in the prescribed manner. Thirdly, letting of the whole or part of the premises must be for residence. Fourthly, such letting out must be for such period as may be agreed in writing. Therefore, there must be an agreement in writing, there must be a permission of the Controller for letting out for a limited period, the landlord must not require the premises for a particular period and letting of the premises must be as a residence. These and these alone are the conditions required to be fulfilled.

13. In Nagindas Ramdas v. Dalpatram Ichharam ((1974) 2 SCR 544 : (1974) 1 SCC 242 : AIR 1974 SC 471), the question was whether a compromise decree for eviction could be passed because the Rent Act enjoined the eviction only on the satisfaction of the court. The respondent-landlord in that case instituted a suit under the Bombay Rent Act, 1947 for possession against the tenant on two grounds, namely, arrears in payment of rent and bona fide requirement of the premises for personal use and occupation. A compromise decree was passed. When the appellant applied for the execution of the decree the tenant contended that the compromise decree had been passed by the Rent Court without satisfying itself as to the existence of grounds of eviction under the Act and hence being a nullity was not executable. It was held by this Court that the public policy permeating this Act was the protection of tenants against unreasonable eviction. Construing the provisions of Sections 12, 13 and 28 of the Act in the light of the said policy, it should be held that the Rent Court under the Act was not competent to pass a decree for possession either in invitum or with the consent of the parties on a ground which was de hors the Act or ultra vires the Act. The existence of one of the statutory grounds mentioned in Sections 12 and 13 was a sine qua non to the exercise of jurisdiction by the Rent Court. Parties by their consent could not confer jurisdiction on the Rent Court to do something which, according to the legislative mandate, it could not do. But if at the same time of the passing of the decree there was some material before the court on the basis of which the court could prima facie be satisfied about the existence of a statutory ground of eviction, it would be presumed that the court was so satisfied and the decree for eviction, though passed on the basis of the compromise would be valid. Such material may be in the form of evidence recorded or produced or it may partly or wholly be in the shape of express or implied admissions made in the compromise agreement. Sarkaria, J. speaking for the court held that admissions if true and clear were by far the best proof of the facts admitted especially when these were judicial admissions admissible under Section 58 of the Evidence Act. In that case the court found because of the admission to pay the arrears of rent and

mesne profits at the contractual rate and the withdrawing of his application for fixation of standard rent, that there was no dispute with regard to the amount of standard rent and there was an admission that the rent was in arrears. The court observed at pages 552 to 553 of the report as follows : (SCC pp. 251-52, para 27)

From a conspectus of the cases cited at the bar, the principle that emerges is, that if at the time if the passing of the decree, there was some material before the court, on the basis of which, the court could be prima facie satisfied, about the existence of a statutory ground for eviction, it will be presumed that the court was so satisfied and the decree for eviction though apparently passed on the basis of a compromise, would be valid. Such material may take shape either of evidence recorded or produced in the case, or, it may partly or wholly be in the shape of an express or implied admission made in the compromise agreement, itself. Admissions, if true and clear, are by far the best proofs of the facts admitted. Admissions in pleadings or judicial admissions, admissible under Section 58 of the Evidence Act, made by the parties or their agents at or before the hearing of the case, stand on a higher footing than evidentiary admissions. The former class of admissions are fully binding on the party that makes them and constitute a waiver of proof. They by themselves can be made the foundation of the rights of the parties. On the other hand, evidentiary admissions which are receivable at the trial as evidence, are by themselves, not conclusive. They can be shown to be wrong.

14. The aforesaid principle must be borne in mind in order to judge the invalidity of the order passed under Section 21 of the Act which was based on the statements made by the appellant and the respondent. The facts of the case upon which great deal of reliance was placed by the High Court in the judgment under appeal and upon which the appellant relied very heavily are mentioned in the case of S. B. Noronah v. Prem Kumari Khanna ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193). There this Court reiterated that Section 21 of the Rent Act carved out a category for special treatment. While no landlord could evict without compliance with Sections 14, 19 and 20 of the Act, a liberal eviction policy could not be said to underlie in Section 21. The court observed that the Parliament was presumably keen on maximising accommodation available for letting, realising the scarcity crisis. One source of such spare accommodation which is usually shy is potentially vacant building or part thereof which the landlord is able to let out for a strictly limited period provided he had some credible assurance that when he needed it he would get it back. The law sought to persuade the owner of the premises for letting for a particular period by giving him a special assurance that at the expiry of that period the appointed agency would place the landlord in vacant possession. Section 21 confined the special remedy to letting for residential uses only. Parliament had the wholesome fear that if the section were not controlled by many conditions it might open the floodgates for wholesale circumvention of the rent control legislations by ingenious landlords exploiting the agonising need of houseless denizens.

15. Section 21 of the Act overrides Section 14 precisely because it was otherwise hedged in with drastic limitations and safeguarded itself against landlords' abuses. The first condition was that the landlord did not require the demised premises 'for a particular period' only. That meant that he must indicate to the authority before which sanction was sought for letting what was the particular period for which he could spare the accommodation. The Controller exercised an important regulatory function on behalf of the community. The fact that the landlord and a potential tenant together apply, setting out the formal ingredients of section 21, did not relieve the Controller from being vigilant to inquire and satisfy himself about the requisites of the landlord's non-requirement 'for a particular period' and the letting itself being 'as a resident'. A fraud an the statute could not be permitted especially because of the grave mischief that might be perpetrated in such event.

16. The court highlighted that it would be a terrible blow to the rent control law if Section 21 were freely permitted to subvert the scheme of Section 14. Every landlord would insist on a tenant going through the formal exercise of Section 21, making ideal averments in terms of that section. The consequence would be that both the Civil Procedure Code which prescribed suits for recovery of possession and the Delhi Rent Control Act which prescribed grounds for eviction would be eclipsed by the pervasive operation of Section 21. Neither grounds for eviction nor suits for eviction would thereafter be needed, and if the landlord moved the court for a mere warrant to place the landlord, through the court process, in vacant possession of the premises, he would get it. No court fee, no decree, no execution petition, no termination of tenancy - wish for possession and the court was at your command. The court observed that such a horrendous situation would be a negation of the rule of law in this area.

17. When the application under Section 21 is filed by the landlord and/or tenant the Controller must satisfy himself by such inquiry as he may make, about the compulsive requirements of that provision. If he makes a mindless order, the court, when challenged at the time of execution would go into the question as to whether the twin conditions for sanction have really been fulfilled. Of course, there will be a presumption in favour of the sanction being regular, but it will still be open to a party to make out his case that in fact and in truth the conditions which make for a valid sanction were not present.

18. The sanction granted under Section 21, if it has been procured by fraud and collusion cannot withstand invalidity because, otherwise, high public policy will be given as hostage to successful collusion. The doctrine of estoppel cannot be invoked to render valid a proceeding which the legislature has on grounds of public policy subjected to mandatory conditions which are shown to be absent. As between unequals the law steps in and as against statutes there is no estoppel, especially where collusion and fraud are made out and high purpose is involved.

19. Law that non-performs stultifies the rule of law and hence the need for critical compliance. Or else, the sanction is non est. Collusion between the strong and the weak cannot confer validity where the mandatory prescriptions of the law are breached or betrayed.

20. An analysis of this judgment which has been applied in the various cases would indicate that Section 21 only gives sanction if the landlord makes a statement to the satisfaction of the court and the tenant accepts that the landlord does not require the premises for a limited period; this statement of the landlord must be bona fide. The purpose must be residence. There must not be any fraud or collusion. There is a presumption of regularity. But it is open in particular facts and circumstances of the case to prove to the satisfaction of the executing court that there was no (sic) collusion or conspiracy between the landlord and the tenant and the landlord did not mean what he said or that it was a fraud or that the tenant agreed because the tenant was wholly unequal to the landlord. In the instant case none of these conditions were fulfilled. There is no evidence in this case that when the landlord stated that he did not the require the premises in question for a particular period, he did not mean what he stated or that he made a false statement. There was no evidence in this case at any stage that the tenant did not understand what the landlord was stating or that he did not accept what the landlord stated. There was no evidence that either the tenant was in collusion or perpetrating any fraud with the landlord or the tenant was unequal to the landlord in bargaining powers. It is manifest that there is no evidence to show that the Controller did not apply his mind. If that is so then on the principle enunciated by this court in Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193), this sanction cannot be challenged. It is not necessary to state under Section 21 the reasons why the landlord did not require the premises in question for any particular period. Nor is

there any presumption that in all cases the tenants are the weaker sections. The presumption is, on the contrary, in favour of sanction, it is he who challenges the statement and the admission of the landlord or the tenant who has to establish facts as indicated in Nagindas case ((1974) 2 SCR 544 : (1974) 1 SCC 242 : AIR 1974 SC 471).

21. In V. S. Rahi v. Smt. Ram Chambeli ((1984) 2 SCR 290 : (1984) 1 SCC 612 : AIR 1984 SC 595), this court on the facts found that the permission under Section 21 of the Act had been obtained by her on the basis of wrong statement, but for which the permission would not have been accorded. These statements which were in the nature of half-truths were apparently made in order to make good the plea that there was only a temporary necessity to lease out the building for a short period and that there was a bona fide anticipation that there would be a pressing necessity to reoccupy the premises at the end of the period, which were the two crucial factors governing an order under Section 21 of the Act. It was stated that the appellants, in that case, who were the weaker of the two parties did not question the truth of the statements made by the respondent when the permission was granted. But such collusion, if any, between the two unequal parties did not confer any sanctity on the transaction in question. The observations of this Court in that case must be understood in the light of the facts mentioned by this Court. It was found in Rahi case ((1984) 2 SCR 290 : (1984) 1 SCC 612 : AIR 1984 SC 595)that there were wrong statements made by the appellant when he approached the Rent Controller. It was admitted before this Court that it was a wrong statement. These were mentioned in pages 295-296 of the report (SCC p. 617, para 10). What was urged was that the appellants being the tenants had colluded with the respondent. It was reiterated by this Court, it is always open to the weaker of the two parties to establish that the transaction was only a camouflage used to cover it's true nature. When one party could dominate over the will of the other, it would not be a case of collusion but one of compulsion. The court relied on the observations of Lord Ellenborough in Smith v. Cuffy ((1817) 6 M & S 160, 165) that it can never be predicted as pari delicto where one holds the rod and the other bows to it. See the observations of this Court at pages 297 and 298 of the report (SCC p. 618 para 11). There is no evidence in this case that there was any wrong or incorrect statement made by the landlord nor is there any evidence that the tenant-respondent herein was the weaker side of the bargain. In that view of the matter the respondent cannot get much assistance from this decision of this Court.

22. This question was again considered by this Court in J. R. Vohra v. India Export House Pvt. Ltd. ((1985) 2 SCR 899 : (1985) 1 SCC 712 : AIR 1985 SC 475 : (1985) 87 PLR (D) 44) where Tulzapurkar, J. referring to Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193) observed that Section 21 carved out tenancies of particular category for special treatment and provided a special procedure that would ensure to the landlord vacant possession of the leased premises forthwith at the expiry of the fixed period of tenancy, evicting whoever be in actual possession. Such being the avowed object of prescribing the special procedure, service of a prior notice on the tenant upon receipt of the landlord's application for recovery of possession and inviting his objections followed by an elaborate inquiry in which evidence might have to be recorded would really frustrate that object. It will be vitiated because it is procured by fraud practised by landlord for creating a limited tenancy. If it is found that the initial order granting permission to create limited tenancy was vitiated by fraud practised by the appellant inasmuch as he had suppressed the fact that an earlier application for such permission had been declined on the ground that premises had been let out for commercial-cum-residential purposes, then there would be no executable order pursuant to which any warrant for possession could be issued under Section 21 of the Act. In the instant case, there is no such collusion and, therefore, the principle of Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193) would not be applicable. The ratio of that decision must be understood in its proper light.

23. Section 21 of the Rent Act was examined by this Court in Smt. Dhanwanti v. D. D. Gupta. There was observed by Pathak, J. as the learned Chief Justice then was, that it was possible for the owner of a premises, on looking to the immediate future, to find that for certain reasons he was unable to occupy the premises forthwith himself but that he may do so later in the not very distant future. The mere fact that the owner has let out the premises after obtaining permission under Section 21 of the Act for a limited period, and thereafter on expiry of that period has found it necessary to obtain permission to let out the premises again for another limited period cannot necessarily lead to the inference that from the very beginning the premises were available for letting out indefinitely. The Rent Controller and the Rent Controller Tribunal should have examined the circumstances prevailing on each occasion when an application was made under Section 21. It was observed that assumption would not be justified where there is no positive material to indicate that from the very beginning there was never any intention on the part of the landlord to occupy the premises himself. There was no such material in that case. On the contrary there was material showing that the landlady had expectation that her son and his family would be in Delhi after two years' period of tenancy. This is significant for the present issue. There is nothing to show that the permission of the Rent Controller was obtained by practising fraud or that it could be regarded as a nullity or that material facts were concealed. The principle of that decision will apply much more in this case. It is observed in that decision that it seems to have been ignored altogether that it is perfectly possible for the owner of a premises, on looking to the immediate future, to find that for certain reasons, he is unable to occupy the premises forthwith himself but that he may do so later in the not very distant future. It is not always that a man can plan his life ahead with any degree of definiteness. Prevailing uncertainty in the circumstances surrounding him may not permit clear-sighted vision into the future. The circumstances might justify his envisioning his need for the premises two or three years later, and therefore applying for permission under Section 21 of the Act to let out the premises accordingly.

24. The facts are more strong and clearer in support of the instant case. Here there is no permission previously. This was first letting out. There was nothing which indicated that any statement was made which was incorrect. We are of the opinion that sanction under Section 21 in the instant case was not a nullity. The onus was on the tenant to show that it was so. He did not make any attempt to dislodge the presumption in the favour of the permission.

25. Learned counsel for the appellant also stressed before us that Section 21 of the Rent Act was a complete code by itself. The order was under Section 21 of the Rent Act. No further question of lease or registered lease arose thereafter.

26. This question has being settled by a series of decisions of the Delhi High Court upon which the people have acted for long. See the decision in Kasturi Lal v. Shiv Charan Das Mathur ((1976) 8 Ren CR 703) where at pages 708-709, Misra, J. of the Delhi High Court had clearly indicated numerous cases where it was held that Section 21 was a code by itself. The order of the permission is itself an authority; no lease was necessary and if that is the state of law in Delhi, it is too late in the day to hold otherwise. See the observations of this Court in Raj Narain Pandey v. Sant Prasad Tewari ((1973) 2 SCR 835 : (1973) 2 SCC 35 AIR 1973 SC 291), where this Court observed that in the matter of the interpretation of a local statute, the view taken by the High Court over a number of years should normally be adhered to and not be disturbed. A different view would not only introduce an element of uncertainty and confusion but it would also have the effect of unsettling transactions which might have entered into on the faith of those decisions. In Delhi transactions have been completed on the basis of permission and it was never doubted that there was any requirement for any lease or any agreement subsequent to the order and the same required

registration. It must be observed that in Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193) there was no admission on oath nor was there any question of registered lease.

27. Numerous other decisions were cited before us but in the view we have taken on the two basic points that the permission was valid and the order permitting limited tenancy was not a mindless order but one passed after application of the mind taking the two relevant facts under Section 21 of the Act into consideration, it is not necessary to discuss these decisions any further. In view of the fact that Section 21 is a code by itself, no question of any further agreement in writing which has to be registered arises. There is no merit in the contention of the respondent.

28. There is another aspect of the matter which has to be borne in mind. The tenant not only failed to establish any fact impeaching the order, he waited for the full term to take this point and did not contest when the permission was obtained on a misrepresentation.

29. It was submitted by Shri Bhatia that in Delhi most of the transactions have been done under Section 21 on the assumptions that after order of the court no further or separate document or lease was required to be executed or that such document or lease had to be registered. It was submitted that numerous transactions have taken place on that basis. It was urged that if it is now found that is not correct position and the correct position in law is that there should be a lease containing the terms of the lease being for 11 months, such enunciation of law should only be made applicable prospectively. Counsel for the appellant contended that otherwise it would have disastrous consequences of unsettling numerous decisions and unsettling many settled transactions between the parties. He drew our attention to the decision of this court in I. C. Golak Nath v. State of Punjab ((1967) 2 SCR 762 : AIR 1967 SC 1643). If we had any doubt on the scope and ambit of Section 21, we might have considered this submission urged on behalf of the appellant provided we were sure, factually, that large number of transactions had been completed on the assumption that no further lease was required after the permission under Section 21. Our attention was drawn to the decision of the Privy Council and the observation of Lord Blanesburgh in the case of Dhanna Mal v. Rai Bahadur Lala Moti Sagar (AIR 1927 PC 102 : 52 MLJ 636 : 101 IC 355 : 54 IA 178). If we were inclined to the view that Section 21 was not a code by itself but required separate lease to follow it up then perhaps we might have considered the effect of the aforesaid decision and observations.

30. In aid of the submission that in order to be entitled to eviction under Section 14 of the Rent Act, the court had to be satisfied itself that the statutory ground for eviction existed and that application of satisfaction of the court could not be by-passed and circumvented by a compromise decree, reliance was placed on certain observations on a decision in Ferozi Jain v. Man Mal. ((1970) 3 SCC 181 : AIR 1970 SC 794) In view of the facts of the particular case, we are of the opinion that it is not necessary to discuss the said decision in detail. Numerous decision of the Delhi High Court were placed before us in support of or in respect of contentions of the parties specially in support of the contention that of the Delhi Rent Act after required a separate lease. The scope and ambit of the Delhi Rent Act after the decision of Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193) came up in Vijay Kumar Bajaj v. Inder Sain Minocha ((1982) 2 Ren CR 392). In that decision, in the light of Section 21, the following questions were posed :

> (1) Whether the permission under Section 21 of the Act is invalid in view of Supreme Court judgment in S. B. Noronah case ((1980) 1 SCR 281 : (1980) 1 SCC 52 : AIR 1980 SC 193), if reasons for not requiring the premises by the landlord for a particular period are not disclosed in his application or his statement before the

Controller ?

(2) Whether before or after permission execution of any agreement in writing to let the premises for the fixed period is necessary, if so, whether such a document requires registration ?

(3) Whether the proposed agreement of tenancy in writing submitted along with the application under Section 21 of the Act, in this appeal required registration ?

31. The questions were answered by the High Court as follows :

(1) Not necessarily. The landlord or the tenant may be able to show that cogent reasons did exist or were within the knowledge of the parties as to why the landlord did not require the whole or a part of his premises for a specified period.

(2) No registration is necessary. The agreement in writing may be entered into either before or grant after of permission.

(3) An agreement in writing submitted along with the application under Section 21 of the Act is really a proposed agreement. It comes into effect only after the grant of permission under Section 21 of the Act. It does not require registration.

32. We are in agreement with the views of the Delhi High Court.

33. Large number of decisions of this Court were cited in support of the contention that eviction decree passed in contravention of the statutory conditions or passed without consideration whether the statutory conditions are fulfilled or not are not binding and cannot be enforced. See Bahadur Singh v. Muni Subrat Dass ((1969) 2 SCR 432) and Kaushalya Devi v. K. L. Bansal ((1969) 2 SCR 1048 : (1969) 1 SCC 59 : AIR 1970 SC 838).

34. We are, however, of the opinion that in view of the facts found in the instant appeal before us, these decisions are not of any relevance.

35. Similarly, our attention was drawn to the observations of this Court in Mansaram v. S. P. Pathak ((1984) 1 SCR 139 : (1984) 1 SCC 125 : AIR 1983 SC 1239) and State of Maharashtra v. Narsingrao Gangaram Pimple ((1984) 1 SCR 621 : (1984) 1 SCC (Cri) 109 : AIR 1984sc 63 : 1984 Cri LJ 4 : 1984 MLJ (Cri) 207). In the view we have taken and the real controversy in this case, this contention is no longer open.

36. On the unregistered lease question, our attention was drawn to a decision of the Delhi High Court in Jagat Taran Berry v. Sardar Sant Singh (AIR 1980 Del 7 : (1979) 2 Ren CR 199 : (1979) 2 Ren CJ 499 : ILR (1980) 1 Del 225). As we have held that Section 21 was a code by itself and no further document was required, it is not necessary to pursue the matter any further.

37. Similarly, our attention was drawn to a Division Bench judgment of the Calcutta High Court in the case of Ram Abatar Mahato v. Smt. Shanta Bala Dasi (AIR 1954 Cal 207) on the question of the terms and extent of Section 107 of the Transfer of Property Act and whether a document in performance of an agreement had to be registered or not. As mentioned hereinbefore in the view we have taken, it is not necessary for us to pursue this aspect any further as to the question whether oral evidence should be introduced to explain the terms of a document embodied in writing.

38. Our attention was drawn to certain observations of this Court in State of U. P. Singhara Singh ((1964) 4 SCR 485 : AIR 1964 SC 358 : 1964 (1) Cri LJ 263(2) but the same are not relevant for our consideration in the present controversy in the light in which we have understood it. Equally same is the decision in respect of the observations of Fazl Ali, J. of the Jammu and Kashmir High Court in Ishwar Dutt v. Sunder Singh (AIR 1961 J & K 45) and the observations of this Court in Sri 5 Sita Maharani v. Chhedi Mahto (AIR 1955 SC 328).

39. In the aforesaid light we are of the opinion that the High Court was in error in the view it took in setting aside the decision in the second appeal. The appeal is, therefore, allowed and the order and judgment of the High Court of Delhi dated July 19, 1985 are set aside and the order and judgment of Rent Control Tribunal dated August 28, 1980 are restored. The appellant is entitled to the costs of this appeal.

</html