

Vidhya Dhari Bhagat

Vs

Allahabad Law Journal Co. Ltd.

Civil Appeal No. 3804 of 1989

(K. Jagannatha Shetty, R.M. Sahai JJ)

13.02.1990

JUDGMENT

K. JAGANNATHA SHETTY, J. -

1. This appeal is against the order for reinduction of the tenant into the premises under Section 19(2) of the Delhi Rent Control Act, 1958 ('the Act').
2. The facts are these : The appellant filed two eviction petitions against the respondents; one was under Section 14(1)(e) on the ground of personal bond fide requirement for occupation and the other was under Section 14(1)(a) for non-payment of rent. The former suit was registered as Suit No. 288 of 1977 and the later as Suit No. 330 of 1977. On December 24, 1977 Suit No. 288 of 1977 was decreed in favour of the appellant. The respondent was granted six months time to evict the premises. In fact the landlord has no right to evict the tenant for six months when the eviction order is made on the ground specified under Section 14(1)(e). Section 14(7) prohibits the landlord from obtaining possession of the premises before the expiration of a period of six months from the date of the eviction order.
3. On April 17, 1978 the Suit No. 330 of 1977 was compromised as between the parties. Under the compromise the appellant accepted Rs. 6000 as arrears of rent as against the claim of Rs. 29,000 in the suit. The respondent-tenant in turn agreed to put the appellant in possession of the premises. Accordingly, the tenant delivered the possession of the premises - a fact which is not in dispute.
4. It may be significant to note that when the tenant delivered possession of the premises, six months period provided under Section 14(7) did not expire for executing the eviction decree obtained in Suit No. 288 of 1977.
5. For some reason or the other the appellant could not continue in the premises. She had to let out the same to a third party. There then the tenant filed an application under sub-section (2) of Section 19 claiming re-entry into the premises. The Rent Controller rejected that application, but upon appeal the Rent Control Tribunal has given relief to the tenant directing the appellant to put back the tenant in possession of the premises. The High Court has dismissed the revision petition in limine.
6. It will be convenient if at this stage, we read sub-section (1) of Section 19 of the Act :

"19 (1). Recovery of possession for occupation and re-entry. - Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of Section 14 (or under Section 14-

A, 14-B, 14-C, 14-D and 21), the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, relet the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises."

7. Sub-section (1) refers to recovery of possession of any premises from the tenant in pursuance of an order made under Section 14(1)(e) or under Sections 14-A, 14-B, 14-C, 14-D and 21. The landlord shall not relet such premises within three years from the date of obtaining possession from the tenant without the permission of the Controller.

8. Sub-section (2) of Section 19 is more important and must be set out in full :

"19(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by the person for whose benefit the premises are held, within two months of obtaining such possession or the premises having been so occupied are, at any time three years from the date of obtaining, possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (1) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be bona fide, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit."

9. This sub-section again operates in favour of the tenant who has suffered an order of eviction under Section 14(1)(e) or under Sections 14-A or 14-D and 21. If the landlord after recovering possession of the premises does not occupy the same or it is not occupied by the person for whose benefit the premises are held, within two months of obtaining such possession, the tenant may move the Controller for a direction against the landlord to put him in possession of the premises or to pay him such compensation as the Controller thinks fit. Not merely that, the tenant has a further right to move the Controller for such reliefs if the landlord has at any time within three years from the date obtaining possession, re-let the premises to third party without obtaining permission of the Controller under sub-section (1) of Section 19, or the possession of such premises is transferred to another person not bona fide. This right of the tenant to re-enter the premises is, however, restricted only in cases where the tenant is ordered to be evicted either under Section 14(1)(e) or under Section 14-A to 14-D and 21. If the possession is recovered under any order other than those referred to in sub-section (1) the tenant has not right to invoke the provisions of sub-section (2) of Section 19.

10. With these requirements of the statute, it may now be examined whether the tenant has a right to seek re-induction into the premises under sub-section (2) of Section 19.

11. From the narration of facts it will be seen that the parties entered into a compromise in Suit No. 330 of 1977 by which the tenant has willingly surrendered possession with payment of Rs. 6000 to the appellant as arrears of rent. On that day there was no execution of the decree for eviction obtained in Suit No. 288 of 1977. It was, however, contended that the tenant willingly surrendered possession of the premises without waiting for the execution of the eviction decree in Suit No. 288 of 1977 and there is no such bar for surrendering of possession under Section 14(7) of the Act. We

could have accepted this submission if there was only a decree for possession in Suit No. 228 of 1977, but that is not so in the instant case. The possession was actually delivered to the appellant by the tenant as per the compromise recorded in the suit based on arrears or rent under Section 14(1)(a) and delivery of such possession cannot therefore, be referable to the decree for eviction under Section 14(1) (e). In fact, that decree for eviction in Suit No. 288 of 1977 was not put into execution and it was perhaps found unnecessary to execute that decree since the tenant has surrendered possession of the premises as per the compromise in Suit No. 330 of 1977 based on arrears or rent. The application filed by the tenant under sub-section (2) of Section 19 of the Act was, therefore, clearly not maintainable.

12. In the result the appeal is allowed, and in reversal of the order of the Rent Control Tribunal as affirmed by the High Court, we restore the order of the Rent Controller.

13. In the circumstances of the case, we make no order as to costs.

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