DELHI HIGH COURT

Dhan Raj Jayna

Vs.

S.P. Singh,

S.A.O. No. 112 of 1972.
(V.S. Deshpande, J.)

12.12.1972

JUDGMENT

V.S. Deshpande, J.

1. The main question for decision in this second appeal under Section 39 of the Delhi Rent Control Act, 1958 (hereinafter called the Act) is whether the respondent tenant complied with the order of the Controller passed under Section 15 of the Act to obtain the benefit of Section 14(2) of the Act. But in answering this question, various other provisions of the Act, e.g., Sections 2(k), 4 to 9, 12 and 13 and sections 59 to 60 and 72 of the Contract Act have also to be considered.

2. The premises of the appellant landlord were let to the respondent tenant from 1.7.1944. In a suit for eviction of the tenant on the ground of non-payment of arrears of rent filed by the landlord under the provisions of the Delhi and Ajmer Rent control Act, 1952 the standard rent of the premises was fixed by Sri J.L. Tandon, Subordinate Judge at Rs. 717.75 including house-tax. The appeal against this decision was dismissed by the High Court on 19.3.1964. During the pendency of the appeal, the Delhi Rent Control Act, 1958 came into force from 9th February, 1959. According to the definition of 'standard rent' in Section 6(1)(B)(2)(a)(ii) of the Act, the standard rent of the premises meant the standard rent fixed under the Delhi and Ajmer Rent Control Act, 1952 together with 15 per cent of such rent. The landlord gave a notice to the tenant informing him that the rent from 1st May, 1959 would be Rs. 825.42. The tenant asked the landlord for clarification whether he was renewing the tenancy at the enhanced rent and was giving up the claim for eviction. The landlord did not give up the claim for eviction and the tenant did not admit the claim of the landlord for the

enhanced standard rent. The judgment of the High Court directed the tenant to pay arrears of rent within one month. In default of such payment, the tenant was liable to be evicted.

3. The question which faced the tenant was at which rate was he to pay the rent arrears. On the one hand, the standard rent fixed by Sri Tandon and confirmed by the High Court was Rs. 717.75. On the other hand, the standard rent demanded by the landlord from 1st May, 1959 under Section 6(1)(B)(2)(a)(ii) of the Act was Rs. 825.42. While the tenant wanted to pay the arrears of rent only at the lower rate of rent, namely, Rs. 717.75, he did not want to take the risk of being evicted if he was in law liable to pay the enhanced standard rent of Rs. 825.42 under Section 6(1)(B)(2)(a)(ii) of the Act. He, therefore, deposited the arrears of rent as follows:-

> (1) Rent for March, 1964 at Rs. 717.75 on 2.4.1964;
> (2) Two separate deposits of Rs. 20,000/- and Rs. 6,000/- on 14.4.1964 "on account of arrears of rent up to-date according to the decree and judgment of High Court..... but the above amount is being deposited in excess so that actual amount due may be calculated and given to the decree-holder. This amount is being tendered..... on account."

On these deposits, the suit for eviction of the landlord against the tenant stood dismissed under Section 13(2) of the Delhi and Ajmer Rent control Act, 1952.

4. The present petition for eviction was filed by the landlord against the tenant on 8.6.1966 again on the ground of non-payment of arrears of rent. The landlord attached to it an account of the arrears of rent due from the tenant and the payments of rent made by the tenant from 1.12.1952 onwards calculating the rent at Rs. 717.75 till 30th April, 1959 and at the rate of Rs. 825.42 from 1st May, 1959 onwards. By this calculation, the landlord showed that the tenant had paid Rs. 602.16 in excess of the rent due from him till 31.3.1964 by the deposits made by him in April, 1964. The landlord purported to adjust the excess towards the rent due for the subsequent period. After calculating his liability to pay rent at the rate of Rs. 717.75, the tenant replied that he had deposited much more excess amount up to 16.4.1964 in rent account.

5. On 27.10.1966 Sri A.S. Gill, Controller ordered the tenant to deposit arrears of rent amounting to Rs. 19,658.76 up to 31.5.1966 and thereafter at the rate of Rs. 825.42 up-to-date and future rent also at the rate of Rs. 825.42 under Section 15 of the Act. On appeal by the tenant, however, the Rent Control Tribunal (Sri C.G. Suri) on 22.11.1966 stayed the operation of the order of Sri Gill by the following order :-

"Arguments heard with regard to application for suspension of the operation of the impugned order. The learned Rent Controller has calculated the arrears at the rate of Rs. 825.42 and has found the amount due for the period beginning 1.4.1964 and ending 31.5.1966 as Rs. 19.658.76. The appellant admits that he is liable to pay rent and house tax for this period at the rate of Rs. 717.75. There is, therefore, no reason why at this stage the appellant should not deposit a sum of Rs. 16,000/- within the time allowed by the learned Rent Controller. The order with regard to the deposit of the balance may however remain suspended until the final decision of the appeal. Any amounts that the appellant may have already deposited in respect of the period mentioned above can be adjusted towards the amount of Rs. 16,000/- which the appellant has been called upon to deposit immediately. The appellant should also continue depositing future rent regularly from month to month in accordance with law at the rate of Rs. 717.75 during the pendency of the proceedings.

The operation of the Rent Controller's order so far as it relates to the balance of the arrears left over after the deposit of Rs. 16,000/- may remain suspended until the decision of the appeal. Rent Controller be informed.":

On 20.3.1967 the Tribunal confirmed that the rent payable by the tenant to the landlord was only at the rate of Rs. 717.75 which was also "the rate of rent at which it was last paid" within the meaning of Section 15(1). The Tribunal observed that -

"It is no body's case that the appellant had ever made any payment of rent at the enhanced standard rent mentioned by the landlord in his notice under Section 8 of the present Act or in the ejectment application now pending before me..... In the previous proceedings the tenant was found to have made a short deposit and had exposed himself to the risk of being evicted on that ground and it was quite possible as contended by him that this extra amount had been deposited by way of abundant caution."

The appeal was thus partly accepted and the order of Sri Gill was modified to the extent that the tenant was called upon to deposit the arrears and future rent with effect from 1.4.1964 at the interim rate of Rs. 717.75. No appeal was filed against these two orders of the Tribunal Sri C.G. Suri. They have thus become final and operate as *res judicata* between the parties.

6. The petition of the landlord for eviction was dismissed by the Controller Sri K.B. Andley under section 14(2) of the Act because the tenant was held to have paid or deposited rent as required by section 15 of the Act. The landlord appealed to the Rent

Control Tribunal contending that the tenant had not complied with the order under section 15(1) passed by Sri Gill and modified by Sri Suri. The Tribunal (Sri Gian Chand Jain) however confirmed the finding of the Controller that the tenant had deposited the rent in accordance with the order under section 15(1) and dismissed the first appeal. Hence this second appeal by the landlord again contending that an order for eviction against the tenant should be passed inasmuch as the tenant has not complied with the requirements of section 15(1) of the Act.

7. The points urged by the landlord to support his contention were as follows:

> (1) The tenant was liable to pay to the landlord the standard rent at the enhanced rate of Rs. 825.42 under section 6[1][b][2][a][ii] from 1st May, 1959.
> (2) Deposits of rent by the tenant in April, 1964 [though in excess and on account] satisfied the landlord's claim of arrears at the rate of Rs. 825.42. The tenant was not entitled to a refund or adjustment of the excess amount paid by him in view of section 13 of the Act.
> (3) The tenant did not pay rent from November, 1966 to March, 15[1]. He was not, therefore, entitled to the benefit of section 14[2] and is, therefore, liable to be evicted.

Let us examine these contentions seriatim.

CONTENTION NO. 1.

8. The Act deals mainly with three subjects, namely:-

> [1] Definition and fixation of standard rent;
> [2] Eviction of tenants on specified grounds such as non-payment of rent, etc; and [3] Payment of *pendente lite* rent by the tenant to the landlord.

The first two provisions determine the merits of the cases between the landlords and tenants while the third provision primarily ensures the payment of *pendente lite* rent but has an indirect effect on the merits of the case. If the only ground for eviction is non-payment of rent, then the tenant can defeat it by depositing the *pendente lite* rent regularly in accordance with the order under section 15[1]. If he fails to do so, his defense is likely to be struck out.

9. The provisions regarding the definition and fixation of standard rent in the Act are concerned only with the determination of the standard rent between the landlord and the tenant according to the criteria laid down in the Act. This is the exclusive jurisdiction of the Controller. The enforcement of the recovery of contractual or standard rent on the other hand continues to be in the jurisdiction of the civil courts.

The definition of 'standard rent. Such an increase can be claimed only after the expiry of 30 days from the notice given under section 8. Section 9(1) requires the Controller to fix the standard rent on application made by the landlord or tenant. Section 12 prescribes the limitation for making such an application. In view of section 4(1) a tenant is not liable to pay to the landlord any amount in excess of the standard rent of the premises and section 5(1) prohibits the landlord from claiming or receiving any amount in excess of the standard rent. The preamble to the Act says that its object is to provide for the control of rents, namely, the contractual rents. The Act, therefore, recognizes the existence of contractual rent. The payment of contractual rent is legal unless and until the standard rent is fixed on an application made under section 9 within the limitation prescribed by section 12. *(M.M. Chawla v. J.S. Sethi,*[1] . It follows, therefore, that neither a landlord nor a tenant can unilaterally himself determine what would be the standard rent according to the relevant criterion in section 6. If one of the parties to the tenancy were to be entitled to unilaterally determine the standard rent and the other party does not accept it, there would be conflicting claims. To avoid such conflict, the Act provides that the standard rent has to be determined by the Controller. If, for instance, a landlord were to unilaterally determine the standard rent which the tenant refused to pay, he would have to file a suit in a civil court to recover the arrears of rent. As the civil court does not have the jurisdiction to determine the standard rent, it would go only by the contractual rent between the parties. On the other hand, if the standard rent is fixed by the Controller, the civil court would accept it as the basis for the claim for the recovery of rent. The Act does not, therefore, contemplate a unilateral determination of standard rent either by the landlord or by the tenant. The landlord cannot, therefore, contend that the standard rent of Rs. 825.42 was determined by section 6(1)(B)(2)(a)(ii) and that he became entitled to it automatically without having to get it fixed by the Controller. As between the landlord and the rent as such. The statute only lays down the criteria in the light of which the standard rent has to be fixed by the Controller. It is only an order of the Controller which can fix the standard rent. A mere perusal of the Act does not result in its fixation.

10. While the Act is concerned with the control of rent payable by the tenant to the landlord, the relevant provisions of the Delhi Municipal Corporation Act, 1957 including Section 116 thereof and of the Punjab Municipal Act, 1911 including Section 3(1)(b) thereof are concerned with a totally different object, namely, the determination of fair letting value by the Corporation for assessing the amount of house-tax payable to the Corporation or the Municipality. While the contractual rent is

binding on the landlord and the tenant unless it is varied by the fixation of standard rent, the contractual rent is not binding on the Corporation for the determination of fair letting value. While the contractual rent would normally be the evidence of "a bargain between a willing lessor and a willing lessee uninfluenced by any extraneous circumstances..... an inflated or deflated rate of rent based upon fraud, emergency, relationship and such other considerations" may not afford such evidence. (*The Corporation of Calcutta v. Smt. Padma Debi,* [2] The last mentioned considerations are irrelevant as between a landlord and a tenant but are very much relevant as between the municipal assessing authority and the premises in respect of which the fair letting value has to be assessed. The municipal assessing authority may not, therefore, accept the contractual rent as a guideline for the assessment of fair letting value if the standard rent of the premises is either fixed by the Controller or is easily determinable by following the provisions of a statute. It is not necessary that the standard rent should be actually fixed by the Controller before it can provide a guideline to the municipal assessing authority to find out the fair letting value of the premises. This is why in our recent Full Bench judgment in *Dewan Daulat Rai Kapoor v. New Delhi Municipal Committee,* [3] *decided on 16.11.1972* we contemplated that not only the fixation of the standard rent by the Controller but also its fixability under the Delhi Rent Control Act, 1958 would afford a guideline to the municipal assessing authority.

11. Another distinction between the relevant provisions of the Delhi Rent Control Act, 1958 and the relevant provisions of the Delhi Municipal Corporation Act, 1957 and the Punjab Municipal Act, 1911 is that while the former apply only when premises are let by a landlord to a tenant, the latter apply even to unlet premises. In respect of them, no question of a Controller fixing the standard rent would arise. It was, however, necessary that in relation to unlet premises, the Corporation should take into consideration the criteria in the light of which standard rent is fixable under the Delhi Rent Control Act, 1958. Such criteria laid down in section 6 of the said Act are devisable into two categories. The first category would include Sections 6(1)(A)(1) and 6(1)(A)(2)(a) as also sections 6(1)(B)(2)(a) and 6(2). The criteria for the determination of the standard rent laid down by them are comparatively more definite and it is possible to calculate the standard rent from them with some certainty. They could, therefore, provide a basis on which the municipal assessing authority can work. The second category consists of Sections 6(1)(A)(b) and 6(1)(B)(2)(b) of the Act. The criteria of the market price of land and the cost of construction laid down therein are essentially questions of fact to be determined on evidence. The standard rent on these

criteria cannot be calculated. It can be ascertained only in a judicial proceeding. These criteria are, therefore, indefinite. They are not capable of providing a guideline to the municipal assessing authority for assessment of fair letting value. This is why the provisions falling in the first category were referred to in our Full bench judgment as those statutorily determining the standard rent. The distinction is this : As between the landlord and the tenant, there is no statutory determination of the standard rent under the Delhi Rent Control Act, 1958 in view of the decision in *M.M. Chawla v. J.S. Sethi,* [4] , referred to above :- But as between the municipal assessing authority and the assessed, the criteria for the determination of the standard rent laid down in those provisions of Section 6 of the Delhi Rent Control Act, 1958 which fall in the first category and are definite enough may be said to amount to a statutory determination or rather determinability of the standard rent. There is thus no inconsistency between the two. The upshot is that the tenant in the present case did not become liable to pay to the landlord the enhanced standard rent at the rate of Rs. 825.42 merely by the coming into force of Section 6(1)(B)(2)(a)(ii). This contention of the landlord is, therefore, rejected.

CONTENTION NO. 2

12. What was the nature of the payment deposited by the tenant in April, 1964? The tenant did not admit his liability to pay rent at the rate of Rs. 825.42. But the landlord had claimed the enhanced rate under Section 6(1)(B)(2)(ii) of the act. It was arguable that the landlord was entitled to the enhanced rate by the language of the statute itself even without getting the enhanced rate of standard rent fixed by the Controller as the rate of standard rent in a previous proceeding had already been fixed at Rs. 717.75; all that had to be done was to add 15 per cent to it to arrive at the new standard rent under the new Act. There was thus hardly any necessity for getting an order of the Controller to this effect. In April, 1964 the tenant was not, therefore, able to know how the law stood on this point. The question of law was not decided till the decision of this Court in M.M. Chawla v. Jaswant Singh, [5] and confirmed by the Supreme Court in *M.M. Chawla v. Jaswant Singh,* [6] The tenant, therefore, deposited an amount which was sufficient to satisfy the arrears of rent even if they were calculated at the rate of Rs. 825.42 but maintained at the same time that he was paying the rent "in excess" and "on account". If a tenant pays rent deliberately to a landlord by agreement in excess of the standard rent of the premises (meaning by 'standard rent' such standard rent which is fixed by the Controller) and the landlord accepts it as such, then the tenant would be acting contrary to Section 4(1) of the Act and the landlord would be acting contrary to

Section 5(1) of the Act. Similarly, if a tenant without any justification pays rent to the landlord in excess of the standard rent, it would be a case of mere overpayment contrary to sections 4(1) and 5(1). Such overpayment being "in contravention of any of the provisions of the Act (Sections 4(1) and 5(1) in the present case)" within the meaning of section 13 of the Act, the tenant can seek a refund or adjustment of the same from the landlord only by an application made within a period of one year from the date of such payment. The ordinary limitation is also cut down by the special limitation provided in Section 13. *Union of India v. Jal Rustomji Modi,* [7] *Jamnadas Harkchand and others v. Narayanlal Bansi Lal,* [8] and *Magan Lal Chhotabhai Desai v. Chander Kant Moti Lal,*[9] .

13. But the payment by the tenant was not made as if the tenant was paying the agreed rate of rent to the landlord. Nor was it made as if the tenant had conceded that the landlord was entitled to the enhanced rate of standard rent at Rs. 825.42. Neither the tenant nor the landlord, therefore, acted "in contravention of any of the provisions of this Act or of the Delhi and Ajmer Rent control Act, 1952" within the meaning of Section 13.

14. The tenant had the right to indicate towards what particular debt he was making the payment to the landlord. He exercised the right and indicated that he was making the payment towards such arrears as were calculable at the rate of Rs. 717.75. The landlord was, therefore, bound by section 59 of the Contract Act to apply the payment only towards that debt, namely, the arrears calculated at the rate of Rs. 717.75. Further, the tenant also indicated that the amount was being deposited "on account" or in "rent account". The words "on account" have also a well recognized meaning. Sterling, J. observed in *Friend v. Young,* [10] that "a payment 'on account' imports an acknowledgement of a liability for a larger sum". The tenant in paying these amounts was making it clear that his total liability to pay rent to the landlord was larger than the amounts he was paying. The tenant wanted to stick to the premises as long as he could. He, therefore, reasonably anticipated that an excess of payment on rent would be adjusted towards future rent if it is ultimately found that the rent payable was not at the rate of Rs. 825.42 but only at the rate of Rs. 717.75. It is true that the tenant has stated in his evidence that these payments were not made as advance payments of rent. They would have been advance payments only if the tenant was sure that his liability was only at the rate of Rs. 717.75. But he was not sure of that. Therefore, he was making the payment to cover the risk if ultimately the liability were to be at the rate of Rs. 825.42. But he was also aware that if the liability remained at Rs. 717.75

then the excess rent would be adjusted towards his total liability which included the rent to be paid for subsequent months. This meaning of the expression "on account" is made clear by the following observation of Buckley, J. in *Re Footman Bower and Co. Ltd.,* [11]

> "When a payment is merely stated to be 'on account' without the liability on account of which it is made being specified, one must first inquire what liabilities on the part of the payer to the recipient exists. If, on inquiry, it is found that the only liability is in respect of a balance due on current account, the natural conclusion to reach is in my judgment, that the payment is made on account of any particular items contributing to that balance."

15. This is also the common law as would appear from 23, Halsbury's Laws of England, 551 in paragraph 1210 in which the following statement of law occurs :-

> "An occupying tenant, who properly pays, on account of a compensation rent charge payable for the extinguishment of manorial incidents on the abolition of copy-hold tenure, any money which as between him and his landlord he is not liable to pay, can either recover it from the landlord or deduct it from the next rent payable; and an intermediate landlord, who pays or allows such a sum, has the like remedy as regards his superior landlord."

The landlord was not, therefore, entitled under Section 60 of the Contract Act to appropriate the payment made by the tenant towards the arrears as calculated by him at the rate of Rs. 825.42.

16. Further, the payment made by the tenant in April, 1964 was for a double purpose. Firstly, it was to pay the arrears at the rate of Rs. 717.75 and to make the excess payment on account towards the rent of the subsequent months. Secondly, it also ensured that in case the rate of standard rent in the eye of law was to be Rs. 825.42 then also the payment should be sufficient to satisfy the arrears. This latter aspect of payment could be regarded as a payment made under a mistake of law. For the, law was uncertain then. The cause of action for the recovery of money paid under a mistake of law *(Sales Tax Officer, Banaras v. Kanialal,* [12] would arise in favor of the tenant under Section 17(1)(C) of the Limitation Act, 1963 only after the tenant discovers the mistake or when the tenant could with reasonable diligence have discovered it. There are two points of time at which it could be said that the tenant with reasonable diligence could have discovered the mistake. The first point of time was 24.1.1969 when this Court decided in M.M. Chawla's case that contract rent remains payable untill/standard rent is determined by the Controller. The second point

of time is when this case itself would be decided finally. The second point of time would be more appropriate inasmuch as the construction of Section 6(1)(B)(2)(a)(ii) was not specifically considered in M.M. Chawla's case. On either view, however, the cause of action had not arisen either on 22.11.1966 or on 20.3.1967 when the Rent Control Tribunal acting under Section 15(1) gave to the tenant the claim of rent arising in favor of the landlord during subsequent months as will be shown in discussing contention No. 3 below.

17. The plea that rent in excess of standard rent was paid under a mistake was also advanced by the tenant in *Union of India v. Jal Rustomji Modi,* [13] It was negatived in para 5 of the decision on the ground that the tenant could have applied for fixation of standard rent if he was in doubt as to what the rate of rent was and that so long as the standard rent was not fixed the landlord was precluded from claiming rent at a rate higher than that of which he was in receipt. The present case is distinguishable from the Supreme Court decision in two respects. Firstly, in that case it was the tenant who claimed that the standard rent could be determined from the provisions of the statute itself without his being compelled to apply for fixation of the standard rent. In para 7 of the decision it was held, therefore, that he could not rely on some of the provisions of the Act for this plea but refuse to face other provisions like Section 7 thereof which laid down the procedure and limitation for claiming refund or adjustment. In the present case, it is the Delhi Rent Control Act who claimed rent higher than the standard rent which had been already fixed. No question therefore arose of the tenant claiming the benefit of some provisions of the Delhi Rent Control Act, 1958 while refusing to face the procedure and limitation laid down in section 13 thereof. Secondly, the tenant in that case did not show that the law was uncertain and, therefore, he made excess payment under a mistake of law. In the present case, this is the justification why the tenant had to make excess payment to cover the risk that the claim made by the landlord may be found ultimately sustainable by the law and the question as to whether the view of the landlord was right or not is still being decided by a hierarchy of courts in the present proceeding.

CONTENTION NO. 3

18. Under Section 15(1) of the Act, the payment of the arrears of rent as also of the future rent can be ordered by the Controller only at the rate at which the rent was last paid. Sri Gill was not, therefore, justified in ordering the tenant to pay rent at Rs. 825.42. For, as pointed out by Sri Suri it was nobody's case that the tenant had ever paid rent at the rate of Rs. 825.42. On the contrary, the rent was paid at the rate of Rs.

717.75. The arrears of rent "legally recoverable from the tenant" by the landlord within the meaning of Section 15(1) meant, therefore, only those arrears as were calculated at the rate of Rs. 717.75 per month. The excess amount paid by the tenant due to the uncertainty of law and by way of abundant caution and "on account" had, therefore, to be appropriated by the landlord towards the rent falling due in subsequent months at the rate of Rs. 717.75. This legal position was clearly understood by Sri Suri. This is why he modified and suspended the operation of the order of Sri Gill. On the principle that a court of appeal has the same powers as the trial Court unless otherwise specified, the Rent Control Tribunal had the same powers as the Controller to pass an order under Section 15(1). The order of Sri Gill, Controller passed on 27.10.1966 was partly modified and suspended by Sri Suri, Rent Control Tribunal on 22.11.1966 provisionally and it was finally modified on 20.3.1967 by the order of Sri Suri which disposed of the appeal against the order of Sri Gill. It is this final order of Sri Suri which then became the order under Section 15(1) in supersession of the order of Sri Gill. In this final order, the tenant was given one month's time to deposit the arrears of rent. Both in the final order of 20.3.1967 and in the previous order of 22.11.1966 Sri Suri had clearly indicated that the tenant was liable to pay rent only at the rate of Rs. 717.75 and any amount paid by him in excess was to be taken into account in calculating the arrears of rent falling due in the subsequent months. Under Section 15(1), therefore, the tenant was lawfully entitled to have the benefit of a period of one month to deposit all the arrears of rent. It is not disputed that he did so. He had not paid the rent for five months from October, 1966 to March, 1967 in the meanwhile. That was because the order of Sri Gill was wrong and Sri Suri had indicated that it was wrong in his order dated 22.11.1966. The tenant was justified in waiting for the final order of Sri Suri inasmuch as he was entitled to get a fresh period of one month under Section 15(1) to deposit the arrears of rent from the date of the final order of Sri Suri which suspended the order of Sri Gill and became the only operative order under Section 15(1) of the Act. This is the result of what is called the doctrine of "merger". (*Lakshmi Achi v. Kailasa Theyar,*).[14] The words "within one month of the date of the order" in Section 15(1) would, in the present case, mean the date of the order of Sri Suri inasmuch as it superseded the order of Sri Gill. Further, Sri Suri expressly gave a further time of one month to the tenant for depositing the arrears of rent. As a court of appeal both on questions of fact and law, he had the jurisdiction to give a fresh period of one month to the tenant for depositing the arrears of rent (*R.S. Lala Praduman Kumar v. Virendra Goyal,*). [15] It is not disputed that the tenant had paid all the arrears and future rent in accordance with the final order of Sri

Suri. The Controller Sri K.B. Andley and the Rent Control Tribunal Sri Gian Chand Jain were, therefore, correct in concluding that the tenant had complied with the requirements of Section 15(1) of the Act.

19. Once the tenant pays the arrears of rent and the future rent in accordance with Section 15(1) he is entitled to the benefit of Section 14(2) to have the petition for eviction dismissed. The proviso to Section 14(2), however, denies to the tenant such benefit for a second time. He can thus get such benefit only once. It is to be noted that the previous suit was dismissed by Sri Tandon and the dismissal was confirmed by the High Court under Section 13(2) of the Delhi and Ajmer Rent Control Act, 1952. The provisions of Section 13(2) were not in *pari materia* to the provisions of Section 14(2) of the Delhi Rent Control Act, 1958. The payment under Section 13(2) of the old Act was to be made on the first hearing of the suit or within such further time as may be allowed by the court. On the other hand, under Section 14(2) of the new Act, in addition to the arrears of rent the Controller can also order the payment of *pendente lite* rent. Under Section 13(2) of the old Act there was no provision for the payment of *pendente lite* rent. The benefit of Section 14(2) under the new Act is available on payment of the arrears as well as the *pendente lite* rent. In view of these differences between the two provisions it cannot be said that the dismissal of the previous suit by Sri Tandon was under Section 14(2) of the new Act. The benefit of section 14(2) is being given to the tenant, therefore, for the first time in the present proceedings. The proviso to Section 14(2) is not, therefore, a bar to the grant of this benefit to him.

20. All the contentions which were argued for the landlord in the appeal have thus failed. No other contention was urged in the argument. The appeal is, therefore, dismissed but in the circumstances without any order as to costs.

Cases Referred.

1. 1970-2 SCR 390

2. AIR 1962 Supreme Court 151).

3. 1973 RCR 93 C.W. 580/71

4. 1970(2) SCR 390

5. 1969 RCR 224, on 24.1.1969

6. 1970(2) S.C.R. 390.

7. AIR 1970 Supreme Court 1490,

8. 1970 RCR 244

9. AIR 1969 Supreme Court 37 :1969 RCR 217

10. 1897(2) Ch. 421 at 436

11. 1961(2) All England Reporter 161 at 165

12. 1959 S.C.R. 1350.

13. AIR 1970 Supreme Court 1490.

14. 1964(2) SCR 259

15. 1969(1) S.C.C. 714