

(1998) 11 DEL CK 0088

In the Delhi High Court

Case No : S. No. 899/96

H. Dohil Construction Co. P. Ltd. and Others

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision : 01-11-1998

Acts Referred:

Transfer of Property Act, 1882 — Section 106

Citation : (1999) 48 DRJ 410

Hon'ble Judges : M.S.A. Siddiqui, J

Bench : Single Bench

Advocate : Geeta Mital, for the Appellant; Y.P. Chandna, for the Respondent

Judgement

M.S.A. Siddiqui, J.—The plaintiffs have filed this suit for eviction of the defendant bank from the suit premises bearing No. B-I, Dohil Chambers, 46, Nehru Place, New Delhi (hereinafter referred to as the "suit premises") and for mandatory injunction directing the defendant bank to remove unauthorised additions and alterations carried on by it and to restore the premises to the same condition in which they were handed over to it.

2. According to the case set up by the plaintiffs, the defendant bank was put in possession of the suit premises on a monthly rent of Rs.4343.63 p. vide registered lease-deed dated 16.8.1977: "The said lease was for a fixed period of 5 years commencing from 12.8.1977. The lease deed provided two extensions of the lease period of 5 years each on the same terms and conditions subject to an increase of 10% in the monthly rent payable on each such option for extension, if exercised by the defendant bank. After the expiry of period of 5 years, the tenancy stood determined by efflux of time and the tenant who did not vacate was holding over the suit premises as a tenant in sufferance. By the notice dated 29.11.1995 the plaintiffs terminated the defendant's tenancy but that the defendant did not vacate the suit premises. Hence this suit.

3. The defendant bank resisted the suit contending that the lease in question is a

perpetual lease and so it cannot be determined by a notice u/s 106 of the Transfer of Property Act; that the suit premises are governed by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and as such the suit is outside the cognizance of this Court. Alternatively it was pleaded that the defendant's tenancy was not terminated in accordance with law.

4. It is worth mentioning that it is beyond the pale of controversy that the defendant bank occupied the suit premises as a tenant of the plaintiff No.1 vide registered lease deed dated 16.8.1977 and the initial duration of the tenancy was for a fixed period of 5 years; that after expiry of the said period, the plaintiffs allowed the defendant bank to remain in possession of the suit premises till determination of the tenancy by the notice to quit dated 29.11.1985. However, during the hearing of the case, the learned counsel for the defendant admitted service of the notice dated 29.11.1995 (Ex.P-1). On 1.12.1997, learned counsel for the defendant sought an adjournment for taking appropriate instructions from the defendant bank to vacate the suit premises. On 4.3.1998, and on 27.4.1998, adjournments were sought on behalf of the defendant bank for finding a suitable accommodation. Despite these adjournments, the defendant bank did not indicate the date for vacation of the suit premises. As noticed earlier there is no dispute between the parties with regard to the tenancy in question. The notice to quit dated 29.11.1995 (Ex.P. 1) has been admitted by the defendant. According to the said notice, the defendant's tenancy was terminated with effect from 31.12.1995. Relying on the said notice, I find and hold that defendant's tenancy has been validly terminated by the plaintiffs. Hence the plaintiffs suit for eviction deserves to be decreed with costs.

5. It is, Therefore, ordered and decreed that the defendant bank shall hand over the vacant and peaceful possession of the premises to the plaintiff. The defendant bank is directed to remove the unauthorised additions and alternations carried on by it and to restore the premises to the same condition in which the same was let out to it. The defendant bank shall also pay the costs of the plaintiff and bear its own. A decree be drawn up accordingly.