

(1994) 04 DEL CK 0050

In the Delhi High Court

Case No : Second Appeal No"s. 65 and 66 of 1991

Kailash Kumar and Others

APPELLANT

Vs

R.L. Kapur
 Prakash Wati Vs R.L. Kapur

RESPONDENT

Date of Decision : 21-04-1994

Acts Referred:

Delhi Rent Control Act, 1958 — Section 14(1)

Citation : (1994) 2 AD 416 : (1994) 54 DLT 342 : (1994) 29 DRJ 234 : (1994) RLR 387

Hon'ble Judges : P.K. Bahri, J

Bench : Single Bench

Advocate : R.P. Bansal, S.Poddar and R.L. Kohli, for the Appellant;

Judgement

P.K. Bahri, J.

(1) These two appeals are directed against the judgment and order dated September 30, 1991, of the Rent Control Tribunal by which he had dismissed the appeals filed by the appellants and also another appeal filed by alleged sub-tenant Raja Ram against the eviction order passed by the Additional Rent Controller dated May 15, 1989, on the ground of eviction covered by clause (b) of proviso to sub-section (1) of Section 14 of the Delhi Rent Control Act.

(2) Facts, in brief, are that Sh.R.L. Kapur, landlord, had filed an eviction petition on the grounds of subletting, assignment and parting with possession of the different portions of the demised premises and on the ground of substantial damage. The ground of substantial damage was negated by the Additional Rent Controller as well as by the Tribunal and no longer survives for consideration in these appeals.

(3) Admittedly, shopNo.21,Jangpura Extension, New Delhi, which consists of two shop rooms, store, shaft, Wc godown, front verandah located on the ground floor as shown in red colour in plan filed Along with the petition was let out to Smt. Prakash Wati in the name of her sole proprietary firm-M/s.Kailash Kumar Prakash

Wati with effect from October 1, 1958. Initially Smt.Prakash Wati Kailash Kumar was shown as a firm through its proprietor Smt.Prakash Wati as respondent No.2. The petition was filed on November 2, 1981. Later on, on the application moved by Sh.Kailash Kumar s/o Smt.Prakash Wati he was allowed to be joined as respondent No.3 and amended petition showing him as respondent No.3 was filed on February 5,1985. It was averred in the petition that Smt.Prakash Wati being the sole proprietor of the firm was having M/s. Shakti Sweets Shop in the premises in question but later on without the consent of the landlord she had parted with possession of the different portions (if the said shop P7 to different persons. Specifically it was averred that portion marked A, b, c, d in the site plan had been parted with and sublet to M/s.Ballabh Investment Private Limited and also to M/s.Anand Estate Agency and now to Shri Anand Sharma, who is carrying on .the estate business in that portion, whereas the portion marked Cdef excluding portion marked Pqrs had been sublet and parted with to M/s. Meenakshi Beauty Parlour and the remaining portion Pqrs in the said site plan has been sublet and parted with to Shri Raja Ram, Pan Shop owner. It was specifically mentioned in para 19 of the petition that out of the tenanted premises, the shop and store had been carved out and had been sublet and parted with to Raja Ram Panwala, who is doing his independent business of Pan Shop and the main shop stood parted with to M/s. Meenakshi Beauty Parlour whereas the verandah was sublet and parted with earlier to some other persons, namely, Dinesh Sharma and one Gulgappa seller and presently to M/s.Ballabh Investment Private Limited and M/s.Anand Estate Agency of Sh.Anand Sharma. Sh. Anand Sharma is the husband of Smt.PrakashWati, respondent No.1 and father of Sh.Kailash Kumar, respondent No.3.

(4) In the written statement Smt.Prakash Wati pleaded that in November 1964, on Kailash Kumar having attained the age of majority and who was looking after the business in the shop and there had accrued heavy arrears of rent and the petitioner-landlord had pressed for early payment of arrears amounting to Rs.3,700.00 , Kailash Kumar agreed to pay the arrears subject to the condition that the landlord accepted him as co-tenant and there occurred a change in the tenancy inasmuch as the tenancy stood created in favor of Smt. Prakash Wati and Kailash Kumar and the rent receipts were duly issued in the said names on Kailash Kumar being accepted as co-tenant. It was further pleaded by her that there existed no sole proprietary ship firm by the name of M/s. Prakash Wati Kailash Kumar and thus, respondent No.2 is neither a necessary nor a proper party.

(5) On merits it was pleaded that there has been no subletting or parting with possession of the demised premises and in fact, the same has been in occupation and possession of the tenants, namely, Prakash Wati and Kailash Kumar. It was pleaded that M/s.Ballabh Investment Private Limited is not in occupation of any portion of the demised premises and in fact is a company registered at Calcutta and it has no office in Delhi. It was further averred that M/s. Anand Estate Agency is a partnership firm of which Prakash Wati and Kailash Kumar and Shri

Anand Sharma are the partners. It was averred that Sh.Anand Sharma is not in possession of the premises in dispute and in fact looks after the business of the said partnership firm at Ballabgarh whereas Prakash Wati and Kailash Kumar look after the Delhi Office. Referring to M/s. Meenakshi Beauty p73 Parlour, it was pleaded that the same belongs to the tenants, namely. Prakash Wati and Kailash Kumar and then the tenants are also having a restaurant in which certain employees are working and one of them is Raja Ram and thus, it was controverted that there has taken place any subletting or parting with possession of any portion of the demised premises, Inpara19 it was again averred that business of restaurant was being run in the premises and Raja Ram was one of the employees and there has been no subletting in the past in favor of any Dinesh Sharma or any Golgappa wala or M/s.Ballabh Investment Private Limited and there has been no carving out of the shop or subletting.

(6) In the replication, the plea of the appellants that tenancy was created in favor of Kailash Kumar as well was controverted and it was highlighted that at different stages different pleas have been taken by the appellants with regard to creation of co-tenancy in favor of Kailash Kumar. It was averred that Smt.Prakash Wati is the sole tenant and rent receipts have been issued in the names of her business of which she has described herself to be sole proprietor. It was controverted that there existed any partnership business as averred by the appellants and it was reiterated that different portions of the shop, as mentioned in the petition, stand sublet or parted with possession to the persons mentioned in the petition. Appellant-Kailash Kumar in a separate reply has taken more or less similar pleas as taken by Smt.Prakash Wati. In replication the pleas of Kailash Kumar were controverted and pleas raised in the petition were reiterated.

(7) The parties examined both oral and documentary evidence and the learned Additional Rent Controller after appraising the evidence gave a finding of fact that in fact, there has been created no co-tenancy in favor of Kailash Kumar at any time and it is only Prakash Wati who was the original tenant who continued to be the sole tenant in the premises in question. On merits, he held that Raja Ram has been in exclusive separate portion of the demised premises marked Pqrs and is carrying on his own independent business of selling of betel leaves and the said portion stands sublet or parted with possession in his favor by the tenant without the written consent of the landlord and the tenant has not been retaining any control over the said portion. The Additional Rent Controller further held that the premises stands also parted with possession and sublet to Sh.Anand Sharma and his portion is also independent portion carved out from the demised premises and the plea of the appellants that there was a partnership business of the tenants in the name of M/s.Anand Estate Agents docs not stand proved and thus, subletting or parting with possession of the independent portion A b c d shown in the plan stood proved. It was also held on merits that the portion Cdef excluding portion Pqrs in the plan stood sublet or parted with possession to M/ s. Meenakshi Beauty Parlour with which tenant had no concern and plea of partnership by the appellants in respect of the said business was also

negatived. These findings have been affirmed by the Rent Control Tribunal.

(8) It is settled law that only on substantial question of law the concurrent finding of fact arrived at by the Additional Rent Controller and Rent Control Tribunal could be interfered with. The learned counsel for the appellants has vehemently argued that the findings arrived at by the two tribunals are vitiated with illegalities inasmuch as they are against the law and illegal presumption has been raised against the appellants on mere coming to the conclusion that Raja Ram, a stranger, is shown to be present in the demised premises. He has argued that as findings of fact arrived at by the two courts are perverse and are based on misreading of evidence, this court has duty to interfere with such findings of fact. Even with regard to finding of the Tribunal that it is not proved that there was created any co-tenancy in favor of Kailash Kumar, it has been argued by the learned counsel for the appellants that the Tribunal has not properly examined the impact of the receipts issued by the landlord himself in favor of Prakash Wati and Kailash Kumar. He has laid emphasis on the word "and" appearing in between the two names in support of the contention that the co-tenancy stood created in favor of Kailash Kumar. He has argued that there was evidence to show that after standard rent proceedings initiated at the instance of the tenant-Prakash Wati had been concluded and standard rent being fixed at much lower rate than the agreed rent, certain arrears of rent had accumulated which landlord was pressing hard the tenant to pay and Kailash Kumar, being son of Prakash Wati, who was looking after the business being run in the shop and who had also become major in November 1964, had agreed to clear the arrears of rent subject to the condition that he was accepted as co-tenant. So, he has urged that the Rent Control Tribunal has ignored the facts appearing in evidence and had not properly appreciated the rent receipts issued in favor of Prakash Wati and Kailash Kumar and had thus reached a wrong and perverse finding that factum of co-tenancy in favor of Kailash Kumar was not proved.

(9) It need not be emphasized that a tenancy is a matter of contract and unless and until the appellants were able to prove the existence of a contract between the landlord and the appellants, there could not come about any co-tenancy in favor of Kailash Kumar. The Supreme Court in the case of Sheodhari Rai and Others Vs. Suraj Prasad Singh and Others, , has laid down that mere payment of rent does not necessarily establish relationship of landlord and tenant and a Single Bench of this Court in Khushbir Singh Vs Ajaib Singh, Air 1983 Noc 76 =(1982) 2 RLR 134, has also laid down that relationship of landlord and tenant is created by a contract and mere payment of rent does not necessarily establish relationship of landlord and tenant.

(10) The plea taken by the appellants in the pleadings is that as arrears of rent had accumulated to the tune of Rs.3741.00 , the landlord was anxious to have those arrears and thus, in November 1964 on Kailash Kumar agreeing to pay two months rent every month to clear the arrears that not only Kailash Kumar was accepted as a co-tenant but the nomenclature which was previously being used

in describing the tenant in the rent receipts as "Kailash Kumar Prakash Wati" was changed to "Prakash Wati and Kailash Kumar" and thus, Kailash Kumar also became co-tenant in the premises. In evidence it has come out that on March 17, 1961, Prakash Wati as sole tenant had filed a petition seeking fixation of standard rent and on May 13, 1964, the standard rent of the premises was fixed at Rs.129/-permonthvideEx.AW14/I,copyofthe order. Ex. R1W5/A1 is the receipt dated August 5, 1964, which is in the name of- Prakash Wati Kailash Kumar. The earlier rent receipts admittedly were in the name of Kailash Kumar Prakash Wati and two months rent was paid to clear the arrears with effect from the month of August 1964 onwards and in this way on November 11, 1964, the arrears were reduced from Rs-3741.00 to Rs.3,354.00 . So, it was evident from a perusal of these documents that the plea taken by the appellants that agreement was made to pay two months rent together every month to clear the arrears in November 1964 was on the face of it a false plea; rather this arrangement was made in the month of August 1964 and that was obviously between Prakash Wati and the landlord and Kailash Kumar was not in the picture. It is true that in the rent receipt Ex.AW14/ R2 the name of the tenant was shown as Smt. Prakash Wati and Kailash Kumar. Now the short question is whether changing the name of tenant in this manner would lead to any legal inference that a contract of tenancy was changed and a new contract of tenancy came to be made between the parties by virtue of which Prakash Wati and Kailash Kumar, two individuals became tenants in the shop?

(11) The learned counsel for the appellants would like me to hold that mere issuance of the said receipt in the name of Prakash Wati and Kailash Kumar should lead to an inference that a contract of tenancy came into existence but I am afraid that it is not possible to agree with this bald contention. After all for bringing about a contract the meeting of minds and agreement between the two contracting parties has to be pleaded and established. Once the plea of the appellants that at first time in November 1964 there came about an agreement to pay two months rent together every month to clear the arrears falls on the ground whether two months rent together was being paid to clear the arrears even prior to November 1964; the very basis or the foundation of the alleged contract in November 1964 stands demolished.

(12) A photo copy of letter Rx dated May 14, 1965 was on the record in which Anand Sharma had signed on behalf of Prakash Wati but subsequently when original letter was produced by the appellants it was produced with an interpolation that Anand Sharma has also signed on behalf of Kailash Kumar which wording did not appear in the photo copy filed on the record initially. On June 1, 1966, Anand Sharma acting as attorney for Prakash Wati and Kailash Kumar had instituted a suit for injunction against the landlord in which plea was taken that co-tenancy in favor of Prakash Wati and Kailash Kumar was created on January 1, 1960, but that suit was withdrawn. Immediately thereafter, landlord started issuing rent receipts showing Prakash Wati and Kailash Kumar as tenant and he omitted the word and appearing between the two names and all the

counterfoils of the rent receipts were being signed showing that there was only one tenant in the shop i.e. Prakash Wati. The said suit was withdrawn on October 10, 1966, unconditionally. Ex.AW14/X is the rent receipt which shows that Prakash Wati signed the counterfoil, and she signed as a tenant and not for anyone else and the word "for" was deleted under her signatures. Contradictory pleas taken by the appellants with regard to the date of creation of alleged co-tenancy in favor of Kailash Kumar are self-evident from the application moved under order I Rule 10 of the CPC by Prakash Wati for impleading Kailash Kumar as one of the respondents in which it was averred that Kailash Kumar was accepted as co-tenant from the very inception of the tenancy i.e. October 1, 1958. In the written statement filed by Prakash Wati on February 25, 1982, same plea was taken. On June 5, 1984, Prakash Wati filed an application seeking amendment of the written statement with a view to take the plea that in November 1964 after Kailash Kumar attained majority that the new tenancy came into existence. The learned counsel for the respondent has pointed out that in fact, Kailash Kumar became major in November 1962.

(13) Apart from the above, discrepant pleas raised with regard to the time when the co-tenancy was allegedly created in favor of Kailash Kumar, as far as oral evidence is concerned, in cross-examination of Dr.R.L.Kapur, landlord (Public Witness 14), it was suggested to him that alleged agreement to accept Kailash Kumar as co-tenant took place on the intervention of two or three residents of the said area (Mohalla people) which suggestion was denied by the landlord. It is pertinent to mention that no names of such persons were suggested who had brought about this agreement for creating any such change in the tenancy. No consideration had been allegedly offered or paid for creation of co-tenancy as alleged. It is also not out of place to mention that the tenant and the landlord had fought a legal battle and obviously landlord would not have been happy for reduction in the rent with the tenant getting the standard rent fixed under the provisions of Delhi Rent Control Act.

(14) Anand Sharma appeared as RIW5 and stated that the tenancy was created in the name of Kailash Kumar as well in 1964 as Kailash Kumar had agreed to pay the arrears of rent by paying two months rent every month. In the examination-in-chief, he does not say that any neighbour had intervened and brought about any such agreement between the landlord and tenant for creating co-tenancy in favor of Kailash Kumar. The appellants have examined one Bishan Kumar Garg (RIW6), who was functioning as Food Inspector in that area since 1962 and according to him, he was approached by both the parties to bring about a settlement between them and due to his intervention Kailash Kumar was accepted as co-tenant on Kailash Kumar a greeting to pay two months rent every month to clear the arrears of rent. His name was not even suggested to the landlord in cross-examination that this person was instrumental in bringing about any such agreement between the parties. According to his testimony, certain other persons were also present, namely, Sardari Lal, Sohan Lal and Kalyan Pandit but they have not been examined as witnesses and even their names

were not suggested in cross-examination of landlord that they were instrumental in bringing about any such settlement. While referring to his statement, the learned Additional Rent Controller has recorded that demeanour of the witness is such that without even knowing the person appearing in a photograph Ex.AWIS/11, he still went on to state that he may be the servant of Prakash Wati. I need not repeat the reasons given by the two tribunals below for disbelieving the testimony of this witness.

(15) Then we have the statement of Kailash Kumar who appeared as R3W9 and also similarly stated that co-tenancy was created in his favor as he had agreed to clear the arrears of rent and the said persons mentioned above had brought about the said agreement. It is evident that it is only as an after-thought that respondents had managed to examine Bishan Kumar Garg as the witness to show that settlement took place in his presence. There is no reason as to why it was not so suggested to the landlord in cross-examination that the settlement was arrived at in presence of such and such named persons and why a vague suggestion was given that two or three residents of the area had brought about the settlement.

(16) The two tribunals have come to a concurrent finding of fact that appellants had miserably failed to prove the creation of any co-tenancy in favor of Kailash Kumar and this finding of fact is based on proper appraisal of evidence and in my view, the same is not liable to be interfered with in second appeal by this court. At any rate, I have also examined the evidence and have no hesitation in endorsing the said finding on merits. Mere fact that at one point of time the receipts were issued in the name of Prakash Wati and Kailash Kumar would not mean that there must have come about a new contract of tenancy for accepting Kailash Kumar, an individual, as a co-tenant. The landlord has explained that it is at the instance of Prakash Wati that he issued the receipt in such names as he was told that Prakash Wati's name should appear first than the name of Kailash Kumar in the receipts. In absence of proof of a contract creating this co-tenancy, mere issuance of rent receipts in particular names would not bring about any co-tenancy in favor of Kailash Kumar. Reliance was sought to be placed by the appellants on copy of the Survey Report of the house-tax demand Ex.RIW6/1 wherein Kailash Kumar is also shown as tenant of the demised premises. Any entry made at the behest of Kailash Kumar in the records of the Corporation would not show that in fact, Kailash Kumar has been accepted as a co-tenant by the landlord.

(17) Now coming to the grounds of subletting and parting with possession. This question u/s 14(l)(b) of the Act came up for consideration before the Supreme Court in Jagan Nath (Deceased) through Lrs. Vs. Chander Bhan and Others, and it was held that it is well settled that parting with possession meant giving possession to persons other than those to whom possession had been given by the lease and the parting with possession must have been by the tenant; user by other person is not parting with possession so long as the tenant retains the

legal possession himself, or in other words, there must be vesting of possession by the tenant in another person by divesting himself not only of physical possession but also of the right to possession and so long as the tenant retains the right to possession there is no parting with possession in terms of clause (b) of Section 14(1) of the Act.

(18) In *Gopal Saran Vs. Satyanarayana*, , it was held that the word "assignment" means transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein and it was held that "subletting" means transfer of an exclusive right to enjoy the property in favor of the third person for consideration that the mere act of letting other person into possession by the tenant and permitting him to use the premises for his own purposes is not, so long as he retains the legal possession himself,-a breach of covenant.

(19) In *M/s. Delhi Stationers and Printers Vs. Rajendra Kumar*, , the Supreme Court has again laid down that subletting means transfer of an exclusive right to enjoy the property in favor of the third party and said right must be in lieu of payment of some compensation or rent and parting of legal possession means possession with the right to include and also right to exclude others. Mere occupation is not sufficient to infer either sub-tenancy or parting with possession. It was held by this court in *Vishwa Nath and Another Vs. Chaman Lal Khanna and Another*, , that so long as lessee retained the legal possession of whole of the premises, he does not commit breach of law against parting with possession by allowing other people to use the same.

(20) It is also now settled law that unless and until the landlord is able to prove from the facts and circumstances that a stranger has been, given an exclusive possession of the demised premises or any portion thereof and tenant has not kept any control over the said premises, the onus to prove subletting or parting with possession remains on the landlord and it is only when the landlord is able to prove that a stranger is in exclusive possession of demised premises or portion thereof that the onus will shift to the tenant to explain the terms under which the said person has been given the exclusive possession and on failure of the tenant to explain the presence of such stranger, an inference has to be drawn that either subletting or parting with possession has taken place in favor of the said stranger.

(21) The learned counsel for the appellants has vehemently argued that there is "no finding given by the Additional Rent Controller or the Tribunal that Raja Ram had been given an exclusive possession of any portion of the demised premises and thus, a wrong legal inference had been drawn that the onus had shifted on the tenant to explain the presence of Raja Ram. There is no merit in this contention. If we peruse the two judgments closely, we clearly find that a finding has been given by the Additional Rent Controller as well as by the Tribunal that Raja Ram is in exclusive possession of the portion Pqrs and he is having his own independent business of selling betel leaves and cigarettes in that portion and as the appellants had failed to prove that he has been an employee of the

appellants, the irresistible inference arises that the premises have been sublet or parted with possession in favor of Raja Ram.

(22) The question which arises for consideration is whether the Additional Rent Controller and the Rent Control Tribunal had properly come to this finding of fact on admissible evidence or not or from the evidence led on the record such a finding could have been reached or not?

(23) I have already referred to the pleadings and it is quite evident that the factum of Raja Ram working in the portion Pqrs was indeed not controverted. It is also not controverted that Pqrs is separately carved out portion for running the business of betel-leaves and cigarettes. The only plea taken was that it is the business of the tenant which is being carried on in that portion. The learned counsel for the appellants has vehemently argued that the tenant was having earlier a sweets shop and later on restaurant business and only a wooden platform has been made available for sale of betel-leaves and cigarettes which is appurtenance to the restaurant and thus, the Additional Rent Controller and the Tribunal had given a perverse finding that this portion of the demised premises stands sublet or parted with possession in favor of Raja Ram.

(24) It is true that in most of the eating places, sweet-meats are being sold in a corner of the shop or some portion of the shop or restaurant is made available for sale of betel-leaves and cigarettes but there cannot be any general principle of law that wherever in any demised premises dealing in restaurant business a betel-leaves and cigarettes business is being carried on in a portion of the restaurant or the shop, the court should draw an inference that there has been no parting with possession or subletting of the portion of the demised premises. It will depend on facts and circumstances of each case to decide whether the said business is an independent business or whether the portion in which such business of sale of betel-leaves and cigarettes is taking place is an exclusive place which could be independently locked and used or whether any legal control has been kept by the tenant over that place or not?

(25) If we look at the site plan Ex.AW13/I, it shows that this particular demised premises has been divided into different portions. There is service road at the back of the premises and there is main road in the front of the premises and then there is another public road on the one side of the premises. There is a godown which is at the back of the demised premises which is given marks G1, G2, G3 & G4 in which earlier admittedly a sweets shop used to be run and just adjacent to the same is another separate place carved out which is given the number Uvwz which was used as a restaurant sometime. The doors of the godown opens on the backside in the service road whereas the doors of the restaurant/store opened on the side-road. Then there is a big area adjacent to the same which Cdef and in this separate area a small possession to Raja Ram and remaining area of Cdef is admittedly being used for running Meenakshi Beauty Parlour. To the witnesses of the landlord, no suggestion was given in cross-examination that apart from an entrance from the side-road there is

another entrance to Pqrs from inside the demised premises. I am mentioning this fact at this stage because later on appellants tried to lead evidence in rebuttal to prove that in fact, there is an opening inside this Pqrs from the side of Beauty Parlour and some photographs were also taken and produced during the pendency of the case which show an opening from which one could put one's head in this portion of Pqrs from the side of the Beauty Parlour. I am afraid that this attempt of the appellants to make a change in the fact situation existing at the spot at the time of the filing of the petition is really of no help to the appellants. As already mentioned by me above, the only case of the appellants was that no doubt a separate business of betel-leaves and cigarettes is being carried on in this portion Pqrs but that business was part of the restaurant business of the tenant and Raja Ram was an employee of the tenant. This was not the case set up that this portion Pqrs was having any access from inside of the other portion of the demised premises. This portion could be independently locked and admittedly was being locked from outside at all material times. Mere fact that it was a wooden platform or wooden desk was placed at Pqrs would not mean that it had not become an exclusive portion when admittedly the wooden partition walls have been raised and this portion could be locked independently and admittedly has been locked from outside independently for running the exclusive business of sale of cigarettes and betel-leaves in that portion.

(26) Awi Ram Niwas had deposed that he had been coming to the said place for making delivery of cigarettes and he used to deliver cigarettes to Raja Ram and Raja Ram was running this business in that portion and he used to open and close the shop. He proved cash memos A1, A3, A4 & A5 in that respect and identified the signatures of Raja Ram on the same. No suggestion in cross-examination was given to him that Raja Ram was not carrying on the business in that place and anyone else was carrying on business in that portion. It is true that he had stated that he had never seen the shop being opened and closed. It was not put to this witness that for the supply of cigarettes payments have not been made by Raja Ram or were made by somebody else. It is true that these cash memos normally should have been in possession of Raja Ram. A Jay Kumar s/o the landlord had deposed that Raja Ram had handed over these cash memos to him. It appears that Raja Ram has been at times siding with the landlord and at times with the appellants because later on Raja Ram has joined the appellants in creating evidence to show that Raja Ram as an employee had made a claim under the Industrial Disputes Act and his claim was accepted and Prakash Wati Kailash Kumar paid his dues. That happened when the case was pending before the Additional Rent Controller and obviously that evidence was created to show that Raja Ram was in fact, an employee of the appellants. Ved Prakash (AW2) also claims to have sold the cigarettes to Raja Ram at the said place vide Ex.AW2/ I, A5, AW2/2 to AW2/4 and he also deposed that Raja Ram had paid the price of these cigarettes. He also deposed that he had seen Raja Ram opening and closing the shop. In cross-examination he stated that he saw Raja Ram closing the shop during the lunch hour whereas he has not seen him

opening the shop, in the morning or closing the shop in the night.

(27) The appellants have not examined any witness to prove as to from where the cigarettes and betel-leaves used to be purchased for being sold in this particular Pan Shop. No account books of the alleged restaurant being run by the tenant have been produced which could show that restaurant was having this business of Pan Shop as part of its restaurant business. Officials from the New Bank of India were examined by the landlord as AW6 and AW7 i.e. B.B.Vij and V.J.Nayyar who proved the documents Exs.AW6/1 and AW7/1 and original ledger was also brought in court from which account of Raja Ram was proved, copy at which Ex.AW7/1 which proved that Raja Ram had taken a loan under the scheme for giving loans to small entrepreneurs and AW7 deposed that he has also sometimes visited the Pan Shop in question and had. seen one resident of U.P. running that shop. but he could not identify that person. AW9 Anil Kumar Sharma is a practicing advocate and is a friend of the son of landlord and he has also deposed about Raja Ram being in exclusive possession of the portion Pqrs and Raja Ram having his own business in that portion. AW7/1 Kuldeep Singh claims to be a social worker who re-commended the case of Raja Ram for obtaining the loan from the Bank and stated that Raja Ram is carrying on the business in that shop as a small entrepreneur. Nothing came out from his cross-examination to show that this witness is not credible. He has been a municipal Councillor of the area. The only suggestion given was that Ajay Kapur s/o landlord and the landlord have helped him in his election and thus he had come to give the statement to oblige them. It is not possible to agree with the contention of the learned counsel for the appellants that this witness would unnecessarily go to the extent of making false statement on the point that Raja Ram was having his independent business in PQRS. After all Raja Ram had taken a loan from the Bank on his recommendation and this witness has seen Raja Ram functioning as a proprietor of the Pan Shop in Pqrs portion. Another witness examined by the landlord was AW12 Laxmi Chand, who also made a similar statement about Raja Ram having his independent Pan Shop in that portion. Suggestions given to these witnesses in cross-examination were that Raja Ram is an employee. It was not suggested at all to these witnesses that business being carried on in that portion Pqrs by Raja Ram was the business of the appellants and not of Raja Ram. It was also not suggested to all these witnesses in cross-examination that Pqrs portion could not be independently and exclusively locked or there existed any access to that portion from any other portion of the demised premises from inside. AW13 Ajay Kapur s/o landlord besides making the statement regarding Raja Ram having exclusive possession of the said portion Pqrs and having his own independent business of betel-leaves and cigarettes also proved the photographs taken by him showing Raja Ram carrying on business in that portion which are Exs.AW13/2 to AW13/ 12 with their negatives Exs.AW13/13 & AW13/14. It is also pertinent to mention that in his cross-examination also no suggestion was given that portion Pqrs could not be independently locked and it was having any access from inside the demised

premises. Similar is the position with regard to testimony of the landlord.

(28) To show that Raja Ram was an employee of the tenant, RW1 Dinesh Chand was examined who stated that he has been working as a part-time accountant of the appellants since 1976 and the employees registers were being maintained which are Exs.R1 & R2 which show that Raja Ram has been an employee of the appellants. Entries in those registers appear to have been made in one go and these registers do not show that they have been produced before any official authorities at anytime. Such like registers could be easily fabricated in support of a particular case. After all it was admitted by the appellants, particularly Anand Sharma as attorney of Prakash Wati and Kailash Kumar that proper account books have always been maintained in respect of the business of this restaurant. No such account books were produced. It is true that no adverse inference could be drawn for non-production of account books as the landlord never prayed that such account books be produced but in order to show that the business being run in that portion PQRS belonged to the tenant the production of the account books would have atleast proved the case of the appellants. Raja Ram has not been examined as a witness. Raja Ram has helped the appellants in showing that he is an employee of the appellants by filing a claim of his salary and other dues before the Industrial Tribunal during the pendency of the case, still the appellants had not cared to examine Raja Ram as a witness. There is no evidence produced by the appellants" show that tenant or tenant's restaurant business had ever paid any amount for purchase of cigarettes and betel-leaves which were being sold admittedly in the Pan Shop being run in portion PQRS. RW2 is the wife of Kailash Kumar and she only made testimony with regard to the running of the said Meenakshi Beauty Parlour and made a statement that Raja Ram is an employee in the Pan Shop.

(29) It is in her testimony that for the first time it was tried to be shown that the said Pan Shop had an access from inside and the Pan Shop is being closed by her husband from inside. She came to be examined only in 1986 after the case has been pending for the last five years. If the. said portion PQRS had any access from inside of the demised premises, the appellants would have not remained silent about this important fact till the evidence of the landlord was over. This material fact would have found mention in the written statement if this fact has been correct. According to this lady, entries in the register are made by her mother-in-law Prakash Wati but Prakash Wati did not appear in witness-box at all.

(30) S.C.BAJAJ (R3W2) was examined to prove the claim made by Raja Ram in 1985 before the Industrial Tribunal for getting his dues from Kailash Kumar and he proved those documents which are Exs.R3/A1 to A6. A perusal of these documents would show that in order to settle the claim of Raja Ram, more than the amount claimed had been paid. The evidence which is created during the pendency of the case obviously would not show that at the time the petition was filed in 1981 subletting or parting with possession had not taken place in favor of Raja Ram in the said portion PQRS. If Raja Ram was so obliging to the appellants

that he could go to the Industrial Tribunal and file a claim against the appellants and effect a compromise with the appellants, there is no reason why appellants could not produce him as a witness in this case. It is apparent that Raja Ram if had appeared as a witness would not have made a statement on oath that in fact he was only an employee and the Pan Shop being run was not owned by him.

(31) Anand Sharma appeared as R1W5 although he stated that Raja Ram is employee of the tenant yet in cross-examination he admitted that it is correct that Pan Shop can be opened and closed independently and Raja Ram opens and closes the Pan Shop sometime although he denied that it is only Raja Ram who opens and closes the shop. He also admitted that the particular portion Pqrs is being used for running the said Pan Shop. Bishan Kumar Garg is the same Food Inspector whose testimony reference has been already made earlier and he also made a bald statement that this Pan Shop was part of the sweet shop and which could be opened and closed from inside as well as from the outside. It appears that this witness has no gumption in making the false statement to support the case of the appellants. He had admitted that he did not know as to where the landlord was residing in 1964, still he went on to state that he had brought about the settlement. The Additional Rent Controller and Rent Control Tribunal have rightly disbelieved this witness and have given good reasons for the same and I do not see any reason to come to a different conclusion.

(32) Kailash Kumar appearing as R3W9 deposed about Raja Ram being an employee of the tenant and the business being run in Pqrs as belonging to restaurant business of the tenant. He deposed that Shakti Sweets Corner was first opened by the tenant which continued till 1968-69 and in 1969 Alpana Cafe and Snacks Bar was opened and according to him Raja Ram has been working with the tenant since 1978. He went on to even produce a letter of appointment Ex.R3W9/ 4 issued to Raja Ram. This letter of appointment has been brought on record much belatedly, so no importance could have been attached to such a document.

(33) The landlord has also proved on record that Raja Ram was challenged by the Mcd for infringement of municipal laws at Pan Shop in question and was convicted on his pleading guilty and Ex.AW5/3 was a copy of the court challan in that respect. In case Raja Ram was merely an employee the challan would not have been taken out in the name of the employee but would have been taken out in the name of the owner of the Pan Shop.

(34) After all it was a question of fact to be proved whether this particular portion has been sublet or parted with possession in favor of Raja Ram or not. The Additional Rent Controller and the Rent Control Tribunal after appraising the evidence produced in the case have come to a finding of fact that in fact tenant has sublet or parted with possession of the portion Pqrs to Raja Ram. Unless this finding is shown to be perverse in any manner or is shown to be based on any inadmissible evidence, in second appeal such a finding of fact cannot be reversed.

(35) The learned counsel for the appellants had vehemently argued that mere presence of Raja Ram in the demised premises should not have led the court to shift the onus on the tenant to prove that Raja Ram was an employee and that there is no evidence of the landlord to prove that the tenant has ceased to have legal control over the portion PQRS. He has urged that basic ingredients of the grounds of subletting or parting with possession have been ignored. He has argued that evidence led by the appellants has been wrongly criticised and disbelieved. I think all these contentions are without merit. I have perused the evidence led in the case and I am of the view that the Additional Rent Controller as well as the Rent Control Tribunal rightly came to the conclusion that Raja Ram has come into exclusive possession of the portion Pqrs and was having his own independent business of Pan Shop. Mere fact that name of Bunty Restaurant is displayed outside the demised premises would not lead to any inference that Pan Shop was part of that restaurant. As already noticed above, the site plan of that demised premises clearly shows that there is no restaurant business in the portion Cdef in which portion this portion Pqrs has been carved out independently. It may be that Ajay Kumar has not made a correct statement that the words "Raja Ram Pan Bhandar" stand written on the shutter of the Pan Shop because if any such description has been there, Ajay Kumar would not have failed to take photograph showing the said inscription but the overall evidence which I have also discussed above leads to the conclusion that in fact, this particular portion Pqrs which is an exclusive portion and could be independently locked and closed and opened has been in exclusive possession of Raja Ram and the evidence led by the tenant failed to prove satisfactorily that Raja Ram has been employee of the tenant.

(36) A contention was also raised by counsel for the appellants that ingredients of the ground of subletting and parting with possession have not been given in the pleadings of the landlord. I have already given the pleadings and I am of the view that necessary ingredients stand pleaded in the eviction petition. Reference has been made to certain judgments by the learned counsel for the appellants which on facts are distinguishable. I would briefly refer to the said judgments.

(37) The first judgment relied upon is Gulzar Singh and Another Vs. Chand Gupta, . In the said case the ground of subletting was sought to be proved on admission of the sub-tenant made in the shape of affidavit produced before the Income Tax Authorities. The Court held that such an admission alone is not sufficient to prove the ground of subletting in favor of Avtar Singh as the tenant is not bound by such an admission of a sub-tenant. There are no two opinions about this proposition of law laid down in this judgment. In the aforesaid case, there was no other evidence available on the record to prove that subletting or parting with possession has not taken place in favor of Avtar Singh.

(38) Then reference is made to, Sri Chand Gupta Vs. Gulzar Singh and another, , which has approved the law laid down in the case of Gulzar Singh (supra).

(39) Counsel for the appellant has also cited Surinder Bala Vs. Satpal Chandha

and Another, , Sohan Lal Vs. Sri Pal and Others, , where this court has held that in second appeal the court can interfere even with the concurrent findings of fact if the court comes to the conclusion that the findings are based on reasons which are against certain principles of law or the findings are perverse. There is no dispute about this principle of law.

(40) Reference was then made to Jagdish Prasad Vs. Smt. Angoori Devi, , where the Supreme Court held that approach of the trial court judge was totally vitiated as merely from the presence of a person other than the tenant in the demised premises, no presumption of subletting can be drawn. Again there is no dispute about this proposition of law. Unless and until it is proved that demised premises or portion thereof has been given into exclusive possession of a stranger and the tenant had lost control over the said portion, the presumption cannot be drawn that subletting or parting with possession has occurred.

(41) In the present case, it is proved by the landlord from overwhelming evidence that Raja Ram has been given exclusive possession of, the portion Pqrs wherein he was running his own business. So, a presumption has been rightly raised by the Additional Rent Controller as well as by the Rent Control Tribunal that it was a case of subletting or parting with possession as the tenant has failed to prove that Raja Ram was an employee of the tenant.

(42) Reference is made to Dipak Banerjee Vs. Lilabati Chakraborty, , The judgment is based on different facts. In that case the tenant had allowed am person to have a tailoring business, another to have a musk school in the demised premises. On facts it was found that tenant has not divested herself from the overall control of the premises and thus, it was held that ground of subletting or parting with possession has not been established.

(43) As already mentioned by me, the question whether subletting or parting with possession has taken place would depend on the peculiar facts of each case. No two cases can be similar. The basic principles enunciated by the Supreme Court are that once it is proved that a particular portion of the demised premises has been given in exclusive possession to a stranger then the onus shifts on the tenant to show that in what capacity that stranger is in exclusive possession of that portion and on the failure of the tenant to explain the presence of such person in exclusive possession of the portion of the demised premises, would lead to presumption that the said portion has been sublet or parted with possession in favor of the stranger by the tenant.

(44) In Jagan Nath (supra) same principles have been enunciated. In the said case the father had retired from the business and the sons who had been working with the father had continued to work in the shop and in such facts it was held that if the father had a right to displace the possession of his sons it cannot be said that the father-tenant had parted with possession.

(45) In Bhagwan P. Sajnani Vs. Ranbir Singh, , the finding of fact arrived at was that exclusive possession has not been given to any stranger and only address of

the premises was used for correspondence purpose by an independent company and it was held that no subletting or parting with possession has taken place. The judgment also explains the different expressions used in Section 14(1)(b) of the Act to which I have already made reference in the earlier part of the judgment.

(46) In *Madras Bangalore Transport Co. (West) Vs. Inder Singh and Others*, , again on facts it was found that partnership firm tenant converted itself into a limited company and partners have become directors of the company and remained in control of the demised premises and it was held that there has taken place no subletting or parting with possession in favor of the private limited company. The judgment is based on its own peculiar facts. In *Murlidhar Vs Chunnilal*, 1969 Rcr 563, it was laid down that mere possession by some person other than tenant would not necessarily prove that premises had been sublet by the tenant to the said person. Rightly so because it will depend on the facts of each case in order to come to the conclusion whether subletting or parting with possession has taken place or not.

(47) In *Reliance Finance Corporation (P) Ltd. Vs M/s. Clearing House & Agencies Pvt. Ltd.* 6-Ors., 1984 (2) Rcr 449, the court held that onus was on the landlord to prove that the landlord had parted with possession of the premises and as long as the tenant retains the legal possession, the tenant could not be deemed to have sublet or parted with possession of the premises. In the said case, the tenant had permitted M/s. Sobha Singh only the user of the premises while the overall control over the possession of the premises was kept by the tenant and the possession of M/s.Sobha Singh was found to be that of a licensee. It was not shown by the landlord that entries in the account books would have shown any different situation and thus, non-production of account books was held to be not fatal to the tenant. In *RamKumar & Ors. Vs Rajinder Thakur*, 1986 (1) Rcr 601, only general principles as enunciated in different judgments, referred by me above, have been reiterated. In the said case, only fact proved was that one stranger was also residing in the premises. It was not shown that the stranger was in exclusive possession of any portion of the demised premises and thus, the ground of subletting or parting with was not stated to have been made out. Same principle was laid down in *Sohan Lal Vs. Sri Pal and Others*, .

(48) In *Chand Kishore Sharma Another Vs Smt. Kampa Wati*, 1983 (2) Rcr 652, the facts were that the father and son were living and messing together as family and it was found as a fact that father and son have been working together in the shop. On such facts it was held that if son has been allowed to use the shop by the father it cannot be said that father has lost legal possession. The case is based on its own facts. In *Smt. Gomti Devi Vs Om Parkash & Another*, 1980 (1) Rcr 569, it was laid down that the relationship of landlord and tenant can be proved by oral evidence or from other facts and documentary evidence is not necessary. There is no dispute about this proposition of law. Then reference is made to *Mst. Ramrati Kuer Vs. Dwarika Prasad Singh and Others*, . In the said

case the account books were not produced by the respondent and the court was asked to draw an adverse inference. The Supreme Court has held that an adverse inference could only have been drawn against the respondent if the opposite party had asked the court to order the respondents to produce the account books and they had failed to produce the same and as no such prayer was made, thus no adverse inference could be drawn for non-production of account books. Keeping in view this ratio of law, this court has not drawn any adverse inference against the appellants for non-production of account books.

(49) Counsel for the appellants has also referred to Chuni Lal Dwarka Nath Vs. Hartford Fire Insurance Co. Ltd. and Another, and Traders Syndicate Vs. Union of India (UOI), , where well known propositions of law have been laid down that it is well established rule of evidence that a party should put to each of its opponents witness so much his case as is concerned with the particular witness and if no such questions are put then court can presume that the witness version is not challenged and is accepted.

(50) As far as subletting and parting with possession of portion Cdef excluding the portion Pqrs is concerned, a specific plea was taken in the written statements filed by the appellants that Meenakshi Beauty Parlour belongs to the tenant. However, in evidence Sh. Anand Sharma, husband of Prakash Wati and father of Kailash Kumar categorically stated that this Meenakshi Beauty Parlour is the sole proprietary ship business of Prakash Wati whereas Kailash Kumar and his wife who appeared in the witness box had deposed that this Beauty Parlour is partnership business of Prakash Wati and Kailash Kumar.

(51) Section 14(4) of the Delhi Rent Control Act lays down that for the purpose of clause (b) of proviso to sub-section (1), any premises which has been let for being used for the purposes of business or profession shall be deemed to have been sublet by the tenant if the Controller is satisfied that the tenant without obtaining the consent-in writing of the landlord as after the 16th day of August 1958 allowed any person to occupy the whole or any part of the premises ostensibly on the ground that such person is a partner of the tenant in the business or profession but actually for the purpose of subletting such premises to any person.

(52) It was not suggested in cross-examination of the witnesses of the landlord that this Meenakshi Beauty Parlour is not functioning in the said separately carved out portion from the demised premises and the same could not be locked independently. So, this portion which is in occupancy of Meenakshi Beauty Parlour is an exclusive portion and admittedly only Meenakshi Beauty Parlour is in exclusive possession of that portion of the demised premises. Kailash Kumar had issued an advertisement in newspaper Ex.AW8/I in the Hindustan Times dated September 27, 1980, vide application given to the newspaper by Kailash Kumar, copy of which is AW8/2. The advertisement was to the following effect:

"HAIR Dresser and Beauty Culture available. Beauty Parlour furnished.

Commission or fix. Chinese independent beauticians wanted. 21 Jangpura Market 110014"

(53) Meenakshi Beauty Parlour had started functioning from that portion of the demised premises since 1980. Once the plea of partnership has been raised by the appellants, it was incumbent upon the appellants to prove that it was a genuine partnership business of the appellants. The appellants admittedly are assessed to Income Tax but no Income Tax orders or tax returns of the appellants have been brought on the record to show that appellants have been earning any profits from p73 running the said alleged partnership business. It is true that according to the landlord there was one Ms.Khan who was the owner of the said Parlour and the landlord could not procure any convincing evidence to show that in fact Ms. Khan is the proprietor of the said business. It was held in *Dharam Chand Vs Kasturi Lal*, 1977 (2) RCf 276, that it is very difficult for a landlord to be able to obtain any direct evidence to prove the subletting and he could only bring on record the substantial evidence and attending circumstances to show that in fact, a particular portion of the demised premises has been sublet. Subletting is obviously resorted to by the unscrupulous tenants in such manner that it should not become evident to the landlord and some direct evidence may not be available to the landlord. None of the independent persons, particularly the employees working in the said Beauty Parlour, were examined to prove that the Beauty Parlour is the partnership business of the tenants. Smt.Vidya Sharma w/o Kailash Kumar was the only witness examined to show that in fact, it is a partnership business of the appellants and a salary register was sought to be proved in this respect. It was admitted by Anand Sharma that a regular attendance register of the employees was being maintained but for reasons best known the said register was not produced on the record. The partnership deed was sought to be proved which is Ex.RIW4/1. Reading of the partnership deed shows that it is a fictitious document. The Additional Rent Controller has given a finding in respect of this partnership deed as follow:

"THE respondent has relied upon Ex. R1W4/1 which purports to be copy of partnership deed between Prakash Wati and Kailash Kumar, in the name and style of M/s.Alpana Cafe and Snack Bar. Original partnership deed has not been produced, Ex.R1W4/1 is on stamp paper of Rs.2.00 . The endorsement on this stamp paper shows that it was purchased for the purpose of affidavit and not for the purpose of partnership deed. In para 1, line 3, all the terms and conditions, the words "and Anand Estate Agency" have been added later on .It is apparent that level of these words is higher than the level of other words in this sentence and even the print of these words is lighter. In para 2 line No.4, full stop has been converted into comma, and the words "pan shop, property dealer and any other business" have been added. In para 3 line No.3, the word "and" has been added subsequently as its level is higher than the level of the other words in the same line. In these circumstances Ex.R1W4/1 does not at all appear to be an authentic document, and no reliance can be placed on it."

(54) I have also personally gone through this partnership deed and find that the aforesaid discrepancies highlighted in the above paragraph by the Additional Rent Controller do exist. It is evident that the appellants have failed to prove that any genuine partnership business of the appellants in the name and style of Meenakshi Beauty Parlour, in fact, exists. Once this finding is reached, an inference has to be drawn that the aforesaid portion of the demised premises stands sublet or parted with possession in favor of M/s.Meenakshi Beauty Parlour. It is not necessary for the landlord to have led any evidence to show as to, in fact, who is the owner of the said particular business. The Rent Control Tribunal has also, after appraising the evidence, agreed with the finding of the Additional Rent Controller. In second appeal I do not think that this court would be justified in reversing such concurrent findings of facts which are based on admissible evidence led before the court and are reached keeping in view the legal principles applicable to the particular fact situation.

(55) It was also quite evident from the evidence that an exclusive portion A, b, c, d which is on the front side of the demised premises is being locked separately from the other portion of the demised premises and the work of Anand Estate Agency and later on Anand Sharma & Company was being carried on in this portion. The plea taken in the written statements was that this is also a partnership business of the appellants and Sh.Anand Sharma. Ex.R3W9/R2 is a copy of the return of Kailash Kumar which itself indicated that Kailash Kumar was having commission income from Anand Sharma. In case Kailash Kumar has been the partner in the said business, he would not have been paid only commission for the business being done under the name and style of Anand Estate Agency and Anand Sharma & Co. The Income Tax returns or Income Tax assessment orders of Prakash Wati and Anand Sharma were not produced to show that they were having any income from any such partnership business. It appears that vide Ex.R3W7/3, copy of the account opening form, an account was opened in the names of appellants and Anand Sharma in the Bank. Mere opening of the account would not lead to any legal inference that in fact any such partnership business has come into existence. The purported partnership deed executed between Kailash Kumar and Prakash Wati mentioned above is a fictitious document as indicated above. It is significant to mention that in the eviction petition the case set up by the landlord was that subletting and parting with possession has taken place in favor of Anand Sharma & Company. Existence of such a firm was controverted by the appellants but R1 is the photocopy of letter produced by the respondents themselves which shows that it is written on a letterhead of Anand Sharma & Company and was issued by Anand Sharma. From the evidence so led on the record, the Additional Rent Controller and the Rent Control Tribunal have given a concurrent finding of fact that Anand Sharma & Company is the exclusive business of Anand Sharma and Anand Sharma is in exclusive possession of the said portion of the demised premises. It is true that if a plea has been taken by the appellants that in fact Prakash Wati has allowed her husband or her son to do their own businesses in the demised premises as they

are living as a joint family and Prakash Wati had retained the legal possession of the demised premises then it would have been possible to give a finding that no such subletting or parting with possession has taken place in favor of Anand Sharma but unfortunately for the appellants they have set up a distinct plea of partnership business and unless that plea is proved, the only inference possible to be drawn in such case is that subletting or parting with possession has taken place. Similar was the position in the case of Dr. Vijay Kumar and Others Vs. Raghbir Singh Anokh Singh, In the said case father had separated the demised premises into two portions and had given one portion to his son and no plea was taken by the tenant that on account of close relationship he had allowed his son to function from the said separate portion and had retained the legal possession. The Supreme Court held that in absence of such a plea being taken the finding reached by the lower courts, that subletting or parting with possession has taken place, cannot be interfered.

(56) From the discussion above, it is not possible to hold that findings of the facts arrived at by the Additional Rent Controller and the Rent Control Tribunal are vitiated with any illegalities or are perverse so that the High Court can in second appeal interfere with such findings.

(57) I may refer to Vinod Kumar Vs Ajit Singh Ahluwalia, 1969 Rcj 218, wherein it has been held that in case of an appeal u/s 39 of the Delhi Rent Control Act, the High Court was incompetent to reassess the evidence afresh and on a question of fact it was bound by the decision of the Rent Control Tribunal. Similar observations are given by the Supreme Court in Bhagwan Das Vs. S. Rajdev Singh, . It was held by the Supreme Court again in Mattulal Vs. Radhe Lal, , that the High Court could not interfere in the second appeal and set aside the finding of fact so long as there was some evidence to support it and it could not be branded as arbitrary, unreasonable or perverse.

(58) So, I hold that there is no merit in these appeals. I dismiss the appeals. However, I grant two months time to the appellants for vacating the premises and for delivering possession of the same to the respondent-landlord. The appellants shall pay costs of the appeals to the respondent. Counsel fee Rs.2,000.00 in each of the appeals.