
(1998) 12 DEL CK 0022

In the Delhi High Court

Case No : I.A. No. 2381 of 1998 in Suit No 1465 of 1997

N.C. Jain and Others

APPELLANT

Vs

Indian Oil Corporation

RESPONDENT

Date of Decision : 08-12-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 12
Transfer of Property Act, 1882 — Section 106

Citation : (1999) 1 AD 748 : (1999) 77 DLT 108 : (1999) 49 DRJ 112

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

Bench : Single Bench

Advocate : Mr. J.R. Midha and Mr. B. Ghosh, for the Appellant; Mr. R.P. Bhatt and Ms. Tanuka Sheel, for the Respondent

Judgement

M.S.A. Siddiqui, J.—By this Order I propose to dispose of the plaintiff's application under Order 12, Rule 6, CPC for judgment on admissions.

2. The plaintiffs have filed this suit for eviction of the defendant from the suit premises bearing No. C-1/52, Safdarjung Development Area, New Delhi and for recovery of Rs. 93,60,000/- as damages for use and occupation from 15.6.95 to 14.6.97 besides pendente lite and future mesne profits at the rate of Rs. 5 lacs per month.

Briefly stated, the plaintiffs' case is that by the agreement of lease dated 8.6.83 the suit premises were let out to the defendant for a period of three years with effect from 15.6.83 with an option to extend the same once for further period of three years subject to increase of rent by 15%. hereafter, the lease was renewed from time to time and as per terms of the last lease dated 26.3.93 the defendant's tenancy expired on 14.6.93 by efflux of time. The defendant did not vacate the suit premises after expiry of the lease period . However, after exchange of correspondence between the parties, the defendant was allowed by the plaintiffs to remain in occupation of the suit premises till 14.6.1995. Instead of vacating the suit premises, on 14.6.95, the defendant sought further

extension of the lease, which was declined by the plaintiff. By the notice dated 1.4.97, the plain-tiffs terminated the defendant's tenancy with effect from 14.6.97. Despite service of the said notice, the defendant did not vacate the suit premises. Hence, the suit.

3. The defendant resisted the suit contending that the notice to quit dated 1.4.97 is invalid and the present suit has been filed with an oblique motive to force the defendant to enhance the rent.

4. It is undisputed that by the agreement of the lease dated 8.6.83, the suit premises were let out to the defendant for a period of three years with effect from 15.6.83 with an option to extend the same once for a further period of three years subject to increase of rent by 15%. Thereafter, the lease was renewed from time to time and the defendant was allowed to remain in occupation of the suit premises till 14.6.95. According to the plaintiffs, by the notice dated 1.4.97 the defendant's tenancy was terminated with effect from 14.6.97. Service of the notice has been admitted by the defendant. It is stated in the written statement that the said notice is invalid. Admittedly, the defendant's tenancy commenced on 15th day of each month. On a perusal of the notice dated 1.4.97, it appears that the defendant's tenancy has been terminated with effect from 14.6.97. Thus in my opinion, the notice dated 1.4.97 satisfies the requirements of Section 106 of the Transfer of Property Act. On the basis of the aforesaid admissions in the pleadings, I find and hold that the defendant's tenancy has been validly terminated by the plaintiffs vide notice dated 1.4.1997 and so they are entitled to evict the defendant from the suit premises.

5. The plaintiffs have claimed Rs. 93,60,000/- as damages for use and occupation of the suit premises by the defendant from 15.6.1995 to 14.6.1997 besides pendente lite and future mesne profits at the rate of Rs. 5 lacs per month. According to the defendant the amount of mesne profits claimed by the plaintiffs is highly excessive and unreasonable. In this view of the matter, I deem it just and expedient to hold an enquiry under Order 20, Rule 12, C.P.C. to determine the rate and quantum of the mesne profits to be recovered by the plaintiffs from the defendant.

6. It is, Therefore, ordered and decreed that the defendant shall deliver vacant and peaceful possession of the suit premises bearing No. C-1/52, Safdarjung Development Area, New Delhi to the plaintiffs. As regards recovery of the mesne profits, an enquiry under Order 20, Rule 12, C.P.C. be held to determine the rate and quantum thereof. The plaintiff's application under Order 12, Rule 6, C.P.C. is disposed of accordingly.