

**(1978) 04 DEL CK 0010**

**In the Delhi High Court**

**Case No :** Second Appeal No. 200 of 1974 and Civil Miscellaneous Appeal No. 295 of 1978

R. Ramanujam

APPELLANT

Vs

Ajit Singh Thukral and Others

RESPONDENT

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**Date of Decision :** 28-04-1978

**Acts Referred:**

**Citation :** AIR 1978 Delhi 286 : (1978) ILR Delhi 368 : (1978) RLR 378

**Hon'ble Judges :** H.L. Anand, J

**Bench :** Single Bench

**Advocate :** I.C. Jain, G.N. Aggarwal, R.S. Narula, D.S. Narula and M.L. Mehra, for the Appellant;

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## **Judgement**

H.L. Anand, J.

(1) This is a tenant's Second Appeal against the order of the Rent Control Tribunal, by which the Rent Control Tribunal reversed the order of the Controller, dismissing the landlord's application- for the eviction of the tenant, on the ground that on account of the admitted user of a residential premises by the tenant for running a boarding and lodging house in the demised premise's, the tenant was liable to be evicted by virtue of clause (k) to the proviso to sub-section (1) of section 14 of the Delhi Rent Control Act, 1958, for short, the Act, and remanded the case to the Controller for consideration under sub-section (II) of section 14 of the Act. The Second Appeal was filed in the following circumstances :-

(2) The premises in dispute, which are admittedly of a residential nature, and built on leasehold land, were let out to the tenant by the predecessor-in-title of the present landlords, the respondents in this appeal. There was some controversy at an earlier stage of the proceedings as to the purpose for which the premises were let to the tenant, but it is now established on the material on record that the premises were let out for running of a boarding and lodging house and that is how they have been used by the tenant over the years. The

eviction of the tenant, was sought in the proceedings, out of which the present appeal arose, on a number of grounds, but the only ground that now survives is that the tenant had, notwithstanding previous notice, used or dealt with the premises in a manner contrary to the condition imposed on the landlord by the Government while giving to the landlord a lease of the land, on which the premises are situated, in that one of the conditions of lease was that the building to be put up on, the leased land would be used for the purpose of a "residential cottage" and that the tenant had admittedly been using the premises for the running of a boarding and lodging house. The application for eviction was contested by the tenant and was dismissed by the Additional Rent Controller, Delhi, as the various grounds of eviction were repelled. The ground for eviction based on the use of the premises for running a boarding and lodging house failed on the short ground, in the state of the law as it stood at that time, that the premises having been proved to have been let out: for the running of a boarding and lodging house on the material on record by the landlord himself, the aforesaid ground envisaged by clause (k) to proviso to sub-section (1) of section 14 of the Act was not available for the eviction of the tenant. On appeal, the Rent Control Tribunal, by the order in appeal, reversed the order of the Rent Controller in view of the later decision of the Supreme Court in the case of Faqir Chand v. Ram Rattan, which entitled the landlords to evict a tenant on the aforesaid ground even if the landlord was a party to letting for a purpose other than the land use. The Rent Control Tribunal, however, came to the further conclusion that, even though the tenant had become liable to be evicted on the aforesaid ground, the requirement of sub-section (II) of section 14 had to be satisfied. The Rent Control Tribunal accordingly remanded the case to the Additional Rent Controller for compliance with the requirement of the aforesaid sub-section. During the pendency of the present appeal and in view of the fact that proceedings before the Additional Rent Controller on remand were not stayed, an order of eviction has since been passed by the Additional Rent Controller after purported compliance with the requirement of sub-section (II) of section 14 and the final order of eviction now forms subject matter of an appeal before the Rent Control Tribunal.

(3) The first contention that the counsel for the tenant raised was that the requirement of clause (k) had not been satisfied in that there was no "previous notice" from the landlords to the tenant, as envisaged by the said provision, and that, in the absence of such a notice, there was no cause of action for the application for eviction on that ground. This contention appears to be devoid of any force. It had been alleged by the landlords in para (4) of the application that "the respondent has refused to stop the misuse of the premises despite a notice to that effect". There was no specific denial of this allegation in the tenant's reply. Again in para 18(a)(ii), the landlords alleged that "a prescribed notice requiring the respondent to stop the misuse of the premises was issued, but the tenant has refused or failed to comply with such requirements within one month of the date of the notice". In reply to this, the tenant, however, denied that any

notice, as alleged, had been received by him or served on him. At the trial of the application, the landlords produced a copy of their notice, dated June 3, 1965, Exhibit A-4, by which counsel for the landlords called upon the tenant "to stop the misuse of the premises and use the same as a residence only within one month of the date of receipt of the notice". This was replied to on behalf of the tenant vide Exhibit A-5, by which the tenant's counsel admitted the receipt of the notice, but declined compliance apparently because of the legal position that then held the field. The application was eventually filed by the landlords on September 17, 1965. It is difficult to accept the contention that, in spite of the aforesaid notice and the averments made in relation to it in the application, there was no previous notice requiring the tenant to desist from the user, which was said to be contrary to the condition imposed on the landlord by the Government. This requirement of the clause was duly satisfied. The contention must, Therefore, fail.

(4) It was next urged on behalf of the tenant that the application for eviction was not competent in the absence of a notice terminating the tenancy in respect of the premises. On behalf of the landlords it was not disputed that the landlords had neither served on the tenant a notice terminating his tenancy nor had made any averment in the application for eviction that a notice terminating the tenancy had been served on the tenant. This was apparently because that is how the law with regard to termination of tenancy was understood at that time to be. It was, however, urged on behalf of the landlords that the objection with regard to notice of termination of tenancy had been waived by the tenant and the tenant was estopped from raising the plea in that the landlords had offered to withdraw the application with permission to file a fresh one on the objection of the tenant that notice terminating the tenancy had not been served, but counsel for the tenant made a statement before the Additional Rent Controller that he did not press the objection regarding the termination of tenancy and this is how the proceedings were continued on the basis of the existing application. It is well settled that the objection with regard to the absence of a notice terminating the tenancy could be waived on behalf of the tenant and the absence of notice would not in that event be fatal to the maintainability of an application for eviction. The objection had been clearly waived on behalf of the tenant and no serious attempt was made to get over this difficulty. What is worse, however, that the tenant is clearly estopped from raising such a plea after the counsel made a statement and thereby persuaded the landlords to continue the application even though it suffered from the infirmity in that it was not proceeded by a notice of termination of the tenancy. This contention must also fail.

(5) It was next urged that the application for eviction must fail in view of the admitted finding that a garage in the building, Which at one stage formed part of the demised premises, and which was included by the landlords in the premises of which eviction was sought, had been taken away from the tenant by the landlords and had been let out to another person. It is true that the demised premises was described in the application for eviction as including a garage and

one of the grounds for the eviction of the tenant was the misuse of the garage for the purpose of a tailoring shop. It is equally true that it is established on record and is now beyond doubt that the garage once formed part of the premises, which were let out to the tenant, had been taken back by the landlord by surrender or otherwise and it was separately let out by the landlords to another person. It is, however, difficult to understand how these circumstances could vitiate the proceedings for the eviction of the tenant from. what has been found to be the demised premises and as to how such findings could deprive the landlords of the right to evict the tenant, if the condition for eviction is otherwise satisfied. Learned counsel for the tenant was unable to invoke any principle of law to sustain the rather extreme contention raised by him, which must, Therefore, fail.

(6) It was then urged that the liability of the tenant to evict by virtue of clause (k) should be seen not in the context of the provisions contained in the lease in respect of the land granted by Government to the landlord but must him reference to the objections that may have been raised by Government or other authorities referred to in the clause and it was urged that inasmuch as notice from the land and Development Office merely objected to the running of a "mess" by the tenant, there was no ground turn eviction because it had been established on the record that the tenant had long since suspended the catering of food in the premises, and that such a business could not be said to be carried on in the premises. It is not disputed that the instrument of lease by Government provided that the premises to be built on the land would be used for the purpose of a "residential cottage" and for no purpose other than a "residential cottage". It has also been a common case of the parties that the notice from the land and Development Office complained of use of the building by the tenant for running a "mass". There has been considerable controversy before me as to the true meaning of the expression "mess" or "messaging" and in particular whether any of these expressions would take within their meaning the running of a mere lodging house without serving food either to the lodgers or to the outsiders. It is, however, unnecessary to decide that controversy in the present proceedings for the simple reason that this Court at this stage is concerned only with the question if. the requirement of clause (k) was satisfied or not. Clause (k) invokes "any condition imposed on the landlord by the Government or the Delhi Development Authority or the Municipal Corporation of Delhi while giving him a lease of the land on which the premises are situated" . This Court has, Therefore, to find as to what condition or condition"s were imposed by the authorities when the lease of the land was given to the landlords and this obviously must be found in the instrument of lease itself. There would, Therefore, be no warrant to go outside that document or to invoke any notice that any of these authorities or their predecessors may have given to the landlords or the tenant with regard to the misuse or breach of the condition that they may have found. There may perhaps be scope for argument that such a notice may have some relevance for the purpose of sub-section (II) of section 14, but this Court is not concerned with

it at this stage of the proceedings, for the order of the Rent Controller under sub-section (II) does not form subject matter of the present appeal, and that being so, this Court is not concerned with the meaning of any expression in that sub-section and for that reason, Therefore, would be reluctant to express any opinion which may possibly prejudice the parties if and when the sub-section came up for interpretation. This contention must, Therefore, be rejected.

(7) That leaves for consideration the last contention of the tenant which was, in fact, the real question in controversy between the parties. According to the tenant, he could not be said to have used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government while giving him a lease of the land on which the premises stand because, even though the demised premises were residential in nature and the tenant has admittedly not used the premises for his residence or that of any member of his family, he has nevertheless never used the premises or any part thereof for a commercial purpose or in such manner as could be said to be for a purpose other than the purpose of a "residential cottage", as envisaged in the Government lease. It was not disputed by the tenant that, while running a boarding and a lodging house, or as a lodging house, even without boarding whether for the lodgers or otherwise, the tenant was certainly carrying on a commercial venture obviously because he was doing it turn gain. It was, however, urged that the nature of the tenant's business was such and the use to which the premises are being put was such that even though he is carrying on the business of running a boarding and or lodging house, the premises are still being used as a residential cottage with the only difference that instead of the tenant residing there, it is used for the temporary or periodic residence of the various lodgers, who pay a consideration for such residence to the tenant or in case it is accompanied by boarding, then also for the services that may be rendered to them by the tenant. This claim was seriously contested on behalf of the landlords and it was urged that, even though the tenant may be justified in using the premises otherwise than for his own residence, the user of it for running a Boarding and Lodging house or either, whether food was served to the lodgers or the outsiders, was for a commercial purpose and thus outside the condition imposed in the lease thereby enabling the landlords to evict the tenant.

(8) According to the material terms of the lease deed, the lessee was bound to erect on the land and "to maintain thereon a good and substantial residential cottage" and "not to use the said land and buildings that may be erected thereon during the said term for any other purpose other than for the purpose of residential cottage". The expression "'residential cottage" denotes a compact residential unit as distinguished, on the one hand, from a large mansion or a castle and, on the other from the modern multistoreyed apartments. In the context in which it is used in the instrument, the expression would mean that the building would be of a residential nature as distinct from a shop, a factory, an office or otherwise of a commercial nature, the clear intention being that the building to be put up on the land would be used for a purely residential purpose.

The "residential cottage" would not necessarily mean a place for the residence of the lessee himself or of the members of his family and the lessee would, Therefore, be within the condition if the building, erected by him on the land, was let out by him to a tenant so long as it was for a residential purpose. It is equally true that. subject to his right to do so in terms of the tenancy, a tenant may, in turn, sublet a part or whole of the premises to a sub-tenant or, should he be entitled to. to more than one sub-tenant and the lessee, as indeed the tenant and the sub-tenant, would still be within the condition so long as the premises was put to a residential use. Would the position be any different, if instead of letting out such a residential building to a tenant or more than one tenant, the lessee let it out to what is commonly known in Delhi as a Thekedar with right to sublet different portions to various sub-tenants. Mr. R. S. Narula, who appeared for the landlords, was unable to contend that the letting in favor of a Thekedar in such a case could be said to be outside the condition imposed by the instrument, even though he had to admit that such a premises under the tenancy of a Thekedar would obviously be for a commercial purpose in that the Thekedar would have taken the building not for his residence, but for gain. Would the case where the building was used for running a boarding and lodging house, as in the present case, be any different. In such a case also, the user of the building is residential in that the lodgers reside in different parts of it. The only possible difference, however, would be in the nature of occupation. When the residential building or part of it is let out to a tenant or by a tenant to a sub-tenant or by a Thekedar to a number of sub-tenants, the occupants or sub-tenants have the right to occupy, as indeed the protection of a statute like the Act. On the other hand, the case of a lodger is different because the boarding & lodging house is registered, as in the present case, under the Sarai Act, and the position of a lodger is more akin to a licensee and their occupation is regulated by Chapter V of the Act which deals with hotels and lodging houses. The only other difference would be that the residence of a lodger in a lodging house need not necessarily be for a definite period and is rarely for long duration and may even be of a casual nature and almost like a steady stream of one lodger following another for temporary stay. Would the legal position be qualitatively any different if the lodger was also served food in the lodging house as part of the boarding & lodging arrangement as distinguished from the sale of food products to a non-lodger in which case obviously it would amount to a carrying on the business of vending food in a residential building and be outside the condition. In determining the true import of the condition and for a decision of the further question if the use of the premises contravenes the condition, it is necessary to bear in mind the clear distinction between the nature of the use to which the premises is put or to put it differently, the manner in which and the purpose for which the premises may be occupied, on the one hand, and the motivation for such user, on the other. The owner of a piece of land or its lessee may put up a residential building neither with a view to reside in it himself nor to let it out but purely with a view to a commercial motive to dispose of the building with a margin of profit. In the same way, the owner of a residential building may have

no plans immediately or in the distant future to occupy it for his residence, but to put the residential premises to his commercial use in the sense of earning the rental income of the building. The case of a Thekedar who takes the residential premises on rent would also present the same dichotomy. In each of these cases, the ultimate occupation of the premises or different parts of it, if there are more than one occupant, is for a purely residential purpose and yet in each of these cases at the same time the premises could be said to have been built or held with a commercial motivation. If the ultimate user of the building is for a residential purpose in the sense that people reside in the building, as distinct from running a shop or maintaining an office, etc, and is within the condition, why should the motivation for which they have been put there make any material difference and take such user, by virtue of that motivation alone, outside the condition ? These analogies may be carried further to the case like the present where the building was let out to the tenant for running a bo

(9) Mr. R. S. Narula, however, tried to dissuade me from giving such a wide construction to the expression "residential cottage" and had marshalled, to reinforce his contention, a few dictionaries, and a couple of English decisions. It would be useful to examine the problem in the context of this material to see if the legal position that emerges would be any different. According to the Oxford Dictionary, a "residential cottage" is a small dwelling house, a sort of a suburban house. In the case of *Tendler v. Sproule*. (2) taking in of lodgers or paying guests was held to be a breach of the covenant not to use the premises for any business and also of the covenant to keep them as a "private" dwelling house only. This decision, as indeed certain other decisions referred to in the report, throw some interesting light on the subject, although, unfortunately for the landlords, all these decisions turn on the peculiar language of the covenant in those cases and do not, Therefore, constitute an authority for the present case. In the case of *Tendler* (supra), the covenant was not to use the premises for any trade or business, but to keep the same as a private dwelling house . It was in this context that it was held that taking in of a lodger or a paying guest was a breach of the covenant. The earlier decision in the case of *Thorn v. Madden*, (3) was referred to and followed. In the case of *Thorn* (supra), Tomlin, J. had this to say :-

"I think that, where, as here, a lady is of set purpose occupying a house which she is aware is beyond her means and, for the purpose of supplementing her means and enabling her to live in the house, is securing, to use a neutral term, visitors to come and live there for short or long periods upon payment for board and residence, it is impossible to say that the house is being used as a private residence only.....I think that such a case as this ... ..amounts to carrying on a business."

In the case of *Tendler* (supra), following these observations, it was held that :-

" THE real gist of the decision is that the taking in of paying guests is a business and that a house which, or part of which, is used to take in paying guests is not

a house which is being kept as a private dwelling house only."

The other cases referred to in the report contain observations in the same strain. But these observations and the conclusion have to be seen in the context of the covenant in that case and, as has been pointed out above, the covenant was not to use the premises for any trade or business, but to keep the same as a private dwelling house. The moment you admit an outsider, it ceases to be a private dwelling house. The covenant in the present case is that the premises should be used for a residential cottage. There are no other limitations except that the premises would not be used for a non-residential purpose. The expression "cottage" does not seem to have any further signification. I am, Therefore, unable to see any reason why I should depart from what appears to me to be the true legal position on principle. It is, however, true that the tenant was unable to lay his hand on any decision which may reinforce the conclusion to which I am inclined. Some support was sought from the decision of Deshpande, J. of this Court in the case of Smt. Satvitri Devi Amar v. ShriA. M. Bose,(4) but there appears to be nothing in that case which maybe of any assistance to the tenant which may otherwise throw any light on the possible solution to the problem in this case. The covenant in that case permitted the use of part of the building as a shop and part of it is a residence, but contained a provision against the use of any part of the premises for any business, trade or manufacture which in the opinion of the Chief Commissioner is noisy, noxious or offensive. It is in this context that it was held that where a boarding and lodging house was run, it was not outside the condition imposed by the covenant. There are certain observations in the report to the effect that the expression "residential" is wider when used in the context of the Master Plan, but is narrower in the context of the Rent Control Act. But these do not appear to be of any assistance to the tenant either.

(10) It would be useful to bear in mind in this context that the concept of a residence has not been a static one but has, on the contrary, undergone over the years drastic change in that what was once thought to be a place of residence in terms of a palace, a castle and a mansion is now, on account of socio-economic changes that have come about. talked of in terms not only of a modest house, a one room tenement but even plural residence in one room itself. On account of the population explosion, rapid industrial development and the consequent pressure on urban land, community living in multi-storeyed apartments and in single-room tenements as well as plural residence in one room itself have become a stark reality not only in India, but even in some of the more advanced countries of the world. I am not unaware of the adverse consequences of the conclusion arrived at with regard to the construction of the expression "residential cottage" on the vital interests of the landlords in that on account of the alleged breach, the landlords are being compelled by the appropriate authority to pay heavy damages. But the landlords are partly, if not wholly, to be blamed for this because, in the first instance, the predecessor-in-interest of the landlords was a party to the arrangement with the tenant which constitutes the

breach, even though in view of the present legal position that has been reduced to mere moral issue. Secondly, the landlords having themselves set up the plea of ejectment on the ground of impermissible user with a view to the rather narrow object of evicting a tenant could not escape the wider financial implications, if such a plea failed.

(11) It follows, Therefore, that the condition that the building would be used only for a residential purpose would not be contravened merely because it is not used as the residence of a tenant or his subtenant, but it is used for the residence of more than one person through the establishment of a boarding and lodging house, irrespective whether food is served to the lodgers or not. Where, however, food is served to non-residents, it would transgress the limit of residential use and would convert it to a business of vending of food stuff.

(12) The question that still remains to be considered is whether in the present case, the tenant, has been running the boarding, and lodging house or had been serving food to the non-lodgers as well. If it is the former, it would be within the condition, but if it is the latter, it would be in contravention of the condition. What is the material on the record with regard to this. The trial Court had not gone into this aspect because of its approach that the premises having been let out to the tenant for the purpose of running a boarding and lodging house, there was no case for eviction. At an earlier stage of appeal before the Rent Control Tribunal, the nature of the use became material because of the change of the law brought about meanwhile because of the decision of the Supreme Court in the case of Faqir Chand (supra) with the result that by an order of April 7, 1973. the Tribunal referred the matter back to the Additional Rent Controller to record a finding after hearing arguments if the user of premises as a boarding and lodging house by the tenant was contrary to the terms imposed on the landlord by the authority. On remand, the Additional Rent Controller recorded further evidence and by his report of August 29. 1973, recorded the finding that the user by the tenant was contrary to the terms imposed on the landlord by the authority. The Tribunal simply referred to this finding and concluded that "user for boarding and lodging house/hotel by the respondent cannot be said to be for the purpose of residential cottage". Elsewhere in the judgment, the Tribunal observed as follows :-

"It was How here the case of the respondent that the user by him as Boarding and Lodging House was residential purpose or that the meal was supplied in the Boarding House to the residents alone and not to the outsiders. If it was so pleaded by the respondent the appellants could have led evidence to show that the meals were supplied not only to the residents but also to the outsiders who could come and pay for the same. In these circumstances, the argument of the learned counsel for the respondent has to be repelled. I, Therefore, affirm the finding of the learned trial court that the user as Boarding and Loading House/ Hotel for the premises in dispute by the respondent is contrary to the terms imposed by the Authority or its predecessor-in-interest while granting the lease

of the land to the lessee/landlord".

(13) It thus appears that originally the trial of the application for eviction preceded on the assumption that the use by the tenant of the premises for running a boarding & lodging house as a commercial venture did not render the tenant liable to eviction because the landlords had themselves let it out to the tenant for that purpose. This defense of the tenant was understandable in th(r) context of the law which prevailed then. It is in this setting that the Additional Rent Controller dismissed the application. The context of the controversy between the parties, however, changed when the matter went up in appeal to the Rent Control Tribunal because meanwhile the legal position that emerged was that there was no estoppel and a tenant could be evicted if the use to which the premises was being put was contrary to a condition imposed on the landlord by Government while granting a lease, notwithstanding that the landlords may themselves have been a party to the purpose of letting. When the Tribunal examined the question of the liability of the tenant to eviction in this context, it obviously found that it was not possible to decide the controversy between the parties without material with regard to the precise nature of the user. This is how the matter was sent back to the Additional Rent Controller for evidence and report. The report of the Additional Rent Controller, however, poses a limited question whether the running of the boarding and lodging house, which is loosely used interchangeably with a hotel, amounted to the contravention of a condition or not. The question is answered in the affirmative on the assumption that running of a boarding and lodging house was a commercial venture, which obviously it is, and, Therefore, the premises was being used for a commercial purpose ignoring, however, the distinction brought out above between the purpose of user and the motivation for it. Unfortunately, the Rent Control Tribunal proceeded on the same assumption and, even though felt difficulty if in deciding the matter because the further question whether meals were being offered to the lodgers or to the outsiders as well was posed, but not answered, as, according to the Rent Control Tribunal, such a plea. had never been set up by the tenant. What is, however, ignored is that in the state of the pleadings at that time, such a plea was hardly necessary. Such a plea was also unnecessary because of the assumption which now appears to be erroneous that running of a boarding and lodging house without even serving food to the outsiders per se renders the use of the premises for a non-residential purpose even though all that may be happening is that different persons reside in the building in a manner not very different from what they would have done if it had been their exclusive residential apartment, In such a context, the need for a plea by the landlord that in any event there was a misuse because food was being served to the non-residents or its denial by the tenant was never considered necessary. However, in the way I have looked at the controversy, running of a boarding and lodging house by itself would not render the user non-residential merely because, the tenant has in running the boarding and lodging house a commercial motivation and that, what may take the case outside the condition imposed by

Government is if the tenant while running such a boarding and lodging house offered food to non-residents thereby running the business of vending foodstuffs to outsiders. A contention was raised on behalf of the tenant that at no stage had the tenant been offering meals to non-residents, and that for quite some time the tenant had discontinued serving of meals even to the lodgers and that, Therefore, during the material period, the tenant had been using the premises merely as a lodging house with no provision for serving of food either to the lodgers or to the outsiders. It is, however, not possible to go into this aspect of the matter in the absence of pleadings and additional material touching the question and any attempt to resolve this controversy in such a situation would be Unfair to the parties. Nevertheless, the parties could not be said to be at fault because the pleadings truly reflect the legal position as it stood at that time and in the subsequent proceedings the courts proceeded on the assumption that boarding and lodging house by itself was a commercial purpose on the assumption that the boarding and lodging house being a commercial purpose, the use of the premises for running such a boarding and lodging house was outside the condition.

(14) Having regard to all the circumstances, it appears to me that the proper course to follow would be to set aside the order of the Tribunal holding that the tenant had become liable to be evicted by virtue of clause (k) to proviso to sub-section (1) of section 14 and to modify the order of remand so as to require the Additional Rent Controller to hold a fresh inquiry after giving permission to the parties to amend their pleadings, if they so desire, and to give additional evidence, if necessary, and after hearing the parties on the question if at the material time the tenant had been serving food to the non-residents or had at any time discontinued serving of food even to the lodgers. I direct accordingly. On the fresh material being brought on record, it would be open to the Additional Rent Controller to decide the question as to the liability of the tenant to eviction in the light of the observations made above. In view of this order, the final order meanwhile made by the Additional Rent Controller would become honest and the appeal filed against it by the tenant would become in-fructuous and would be treated as such.

(15) The present application for eviction had been filed in the year 1965 and the proceedings have not as yet concluded. It would, Therefore, be reasonable and proper that the further proceedings are taken with maximum dispatch and expedition. The Additional Rent Controller would decide the matter finally within six months of the receipt of the records. Parties are directed to appear before the Additional Rent Controller on 11th May 1978. The records would be remitted to the Additional Rent Controller forthwith. C.M.No.295 of 1978 by which the tenant invites attention to a notice served upon the tenant by the Assistant Collector 1st Grade, Delhi Development Authority, is, however, dismissed as the said notice has no relevance to the question in controversy.

(16) In the peculiar circumstances, parties will bear their respective costs of the

proceedings in this Court.