
(1992) 08 DEL CK 0004
In the Delhi High Court
Case No : Suit No. 2767 of 1991

Radha Lal	Vs	APPELLANT
Jessop and Co.		RESPONDENT

Date of Decision : 05-08-1992

Acts Referred:

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

Citation : (1992) RLR 432

Hon'ble Judges : Sagar Chand Jain, J

Bench : Single Bench

Judgement

S.C. Jain, J.

(1) In this suit filed by Smt. Radha Lal for possession and mesne profits regarding property No. 8, Golf Links against M/s. Jessop & Co. defendant herein, an application being I.A. 1583/92 was filed by the plaintiff under Order 12 Rule, 6, r.w. 151 CPC with the request that a decree for possession may be passed in view of the admission made by the defendant in the W/S.

(2) The facts giving rise to this suit are that ground floor of 8, Golf Links was let out to the defendant company on or about 1.5.1969 by the husband of the plaintiff on a monthly rent of Rs. 3000.00 which was increased to Rs. 7000.00 w.e f. January, 1984. After the death of the original owner/landlord the plaintiff started receiving the rent of these, premises. After amendment of the Delhi Rent Control Act, 1958 by the Amendment Act of 1988, as per S. 3C of the Act, the provisions of the Delhi Rent Control Act were not made applicable to those premises, whether residential or not, if the monthly rent exceeded Rs. 3500.00. On the basis of this amendment, suit has been filed for possession.

(3) The defendant contested the suit by filing W/S pleading, inter alia, that the suit is bad for misguide of parties. After the death of Krishan Lal, the original owner, who died intestate, besides the plaintiff his son Nandan Lal and daughter Smt. Anuradha Singh became co-owners and they have not been made parties to

this suit. The termination of tenancy by notice u/S. 106 of the T.P.A. has also been disputed. The ownership of the plaintiff has also been denied. The factum and validity of the notice u/S. 106 of the T.P.A. dated 8.2.1989 has also been challenged.

(4) Learned counsel for the plaintiff applicant argued that the receipt of the notice sent u/S. 106 of the T.P.A. has not been denied. The relationship of landlord and tenant has also been admitted and the defendant has admitted the monthly rent of Rs. 7000.00. According to the learned counsel in view of the admission of these three facts, the plaintiff is entitled to a decree for possession as the provisions of Delhi Rent Control Act are not applicable in the present case in view of S.3C of the Delhi Rent Control Act as amended.

(5) I do not agree with the submissions of the learned counsel for the applicant plaintiff.

(6) When the provisions of Delhi Rent Control Act are not applicable in this case in view of S. 3 (C) of the Delhi Rent Control Act, as amended, that suit for possession can only succeed on the strength of the title of the plaintiff. A person may be a landlord but necessarily not an owner. In this case, admittedly this property belonged to Shri Krishan Lal, who had let out the same to the defendant as far back as on 1.5.1969. He left three legal heirs, namely, his widow (plaintiff herein), his son Nandan Lal and daughter Anuradha Singh. The defendant in the W/S has stated that the plaint does not disclose any document of ownership of the plaintiff inasmuch as after the death of Krishanlal the said property devolved on the plaintiff, his son and his daughter who become joint owners of the property. The defendant has denied the title of the plaintiff to the suit properly and this fact needs proof. It has also been denied that the tenancy was validly terminated by notice u/S. 106 of the T. P.A. The factum and validity of notice dated 8.2.86 has been challenged. All these facts need investigation It cannot be said that the defendants have admitted the contents of the plaint and straightaway a decree of possession can be passed as claimed by the plaintiff-applicant. Moreover, it is admitted fact that drawing of decree in this suit has been stayed by the Supreme Court by its order dated 9-7-1992.

(7) In view of the above circumstances, this application under Order 12 Rule 6 Cpc is dismissed.