

(2002) 11 DEL CK 0122

In the Delhi High Court

Case No : CW No. 7569 and CM. 12889 of 2002

Rakesh Khanna and Another

APPELLANT

Vs

MTNL and Another

RESPONDENT

Date of Decision : 26-11-2002

Acts Referred:

Citation : (2002) 101 DLT 507 : (2003) 66 DRJ 576

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Apurb Lal, for the Appellant; Piyush Sharma, for the Respondent

Judgement

Manmohan Sarin, J.—Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. This writ petition has been filed by Mr. Rakesh Khanna, petitioner No. 1, sole proprietor of M/s. Prabhat Press as also by Mr. Srikant Somani, petitioner No. 2, who happens to be a tenant of petitioner No. 1.

3. Petitioner No. 1 earlier had Mr. Samit V. Gupta, as a tenant. Mr. Sumit V. Gupta was the subscriber of telephone No. 7458699 installed at the tenanted premises. He terminated his tenancy and vacated the premises in February, 2002.

4. Petitioners have been served with a notice bearing No. CAO(TRN-I)O/S/P-7458699 dated 30.10.2002, issued by respondent/MTNL. By the said notice, they have been called upon either to make the payment of dues of telephone No. 7458699 of the tenant, Mr. Sumit V. Gupta or furnish particulars of the address of said tenant, failing which telephone connection of petitioner Nos. 1 and 2, merely 7127973 and 7431849 would be disconnected.

5. Mr. Apurb Lal, counsel for the petitioner, submits that petitioner No. 1's relations with the said tenant were strained and, Therefore, he is not aware of the tenant's whereabouts. He is thus not in a position to provide the requisite information. He further submits that in the absence of any commonality of user,

petitioner/landlord cannot be made responsible for payment of telephone charges of erstwhile tenant, to whom the respondent/MTNL itself had sanctioned the telephone. The petitioners had no access to the said telephone, which was installed with the tenant. There is merit in this submission. Accordingly, notice bearing No. CAO(TRN-I)O/S/P-7458699 dated 30.10.2002 is hereby quashed. However, the order passed in this writ petition would not come in the way of the respondent initiating recovery proceedings against the tenant. Learned counsel for the respondent seeks liberty to approach the Court in case on investigation they find evidence of commonality of user between the petitioners and tenant in respect of telephone No. 7458699. The prayer at this stage is premature and hypothetical.

The writ petition stands disposed of.