

(2011) 02 DEL CK 0295

In the Delhi High Court

Case No : Regular First Appeal No. 412 of 2001

S.K. Goel

APPELLANT

Vs

R.C. Kapoor

RESPONDENT

Date of Decision : 23-02-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96

Citation : (2011) 02 DEL CK 0295

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Amit Gupta, for the Appellant;

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—The challenge by means of this Regular First Appeal u/s 96 of the Code of Civil Procedure, 1908 is to the impugned judgment and decree dated 1.8.2001 which has partially decreed the suit for recovery of arrears of rent/damages. The Trial Court has held the Appellant/landlord entitled to rent from 1.4.2000 till 4.7.2000.

2. Learned Counsel for the Appellant, very ably argued that since admittedly the Respondent vacated the suit premises on 9.1.2001, the Respondent was surely liable to pay charges for use and occupation from 1st April, 2000.

3. I agree. Any person who uses a premises, is liable to pay charges for use and occupation of the premises till he actually vacates the premises. The Respondent admittedly stayed in the suit premises till 9.1.2001 and therefore the Trial Court has committed a clear-cut illegality and perversity in granting the rent only from 1.4.2000 till 4.7.2000. Merely because the written statement was filed on 4.7.2000 and which contained an averment to hand over the possession, will not mean that till actual physical possession is handed over and the Respondent would not be liable to pay the charges for use and occupation till the possession is actually handed over. The possession as already stated, was actually handed

over on 9.1.2001.

4. Accordingly, the appeal is accepted and a decree is passed in favour of the Appellant and against the Respondent directing the Respondent to pay the admitted rate of rent as charges for use and occupation of the premises from 1.4.2000 till 9.1.2001. The Appellant will be entitled to adjust the decretal amount out of the amount of Rs. 50,000/- lying with the Appellant as security. So far as the balance decretal amount is concerned, the same can be realized by the Appellant from the Respondent by executing the money decree. Decree sheet be prepared holding the Appellant entitled to recovery of charges for use and occupation at Rs. 8,000/- per month from 1.4.2000 till 9.1.2001. Trial Court record be sent back. Parties are left to bear their own costs.