
(2005) 08 DEL CK 0049

In the Delhi High Court

Case No : Regular First Appeal (OS) 1 of 2003

State Bank of Patiala

APPELLANT

Vs

Sohan Singh and Others

RESPONDENT

Date of Decision : 22-08-2005

Acts Referred:

Citation : (2005) 08 DEL CK 0049

Hon'ble Judges : V.K. Jain, J; Rekha Sharma, J

Bench : Division Bench

Advocate : nem, for the Appellant; Sidharth Luthra and Smriti Sinha, for the Respondent

Judgement

Vijender Jain, J.—On 19.7.2005 we had recorded the undertaking of Mr. P.C. Shahi, Manager (Accounts) of the State Bank of Patiala that the appellant has taken a decision to hand over the vacant and peaceful possession of the demised premises on or before 31.12.2005. Consequently, we accepted the undertaking of the appellant and directed the appellant to abide by it. We also observed that warrant of possession shall not be issued till 31.12.2005. On that date Shri R.P. Bansal, learned Senior Counsel appearing for the appellant had taken time to take instructions for settling the question of mesne profits. We accordingly adjourned the matter at the request of Shri R.P. Bansal.

2. The learned Single Judge has awarded damages from 1.11.89 till the date of restoring back possession at the rate of Rs. 100/- per square feet. Mr. Shahi, Manager (Accounts) is present in Court today. He submits that mesne profits granted by the learned Single Judge are on the higher side.

3. On the other hand, the learned counsel appearing for the respondent has referred to the evidence brought on record by the respondent which is in the form of three lease deeds and were exhibited as PW-1/1. The first lease deed dated 23.11.89 is in respect of Flat No. 14 on the 13th floor admeasuring 303 square feet at a monthly rent of Rs.25/- per square feet per month. The second

lease deed dated 3.8.1994 is in respect of flat no. 10-E measuring 422 square feet situated in DCM building at 16, Barakhmba Road at a monthly rent of Rs. 70/- per square feet per month. The third lease deed is dated 3.3.1995 and it pertains to the premises admeasuring 2700 square feet super area on the sixth floor situated in a multi storeyed building known as Dr. Bhagwan Das Road at Rs. 105/- per square feet per month.

4. As against the above evidence led by the respondent our attention was also drawn to the oral evidence of Shri M.L. Sharma, Senior Manager, State Bank of India, recorded by the learned Single Judge on 21.11.2001. The said Manager appeared as DW-2 and in answer to a question, he deposed as under :-

"Similar accommodation can be had on rent at Kasturba Gandhi Marg at the rate of Rs. 40-60 per square feet per month as in August, 2001 State Bank of India has been offered similar accommodation at the rate of 60 per square feet per month."

5. It is submitted by learned counsel for the respondent that the premises in which the appellant is a lessee are situated in a two storey corner building on Kasturba Gandhi Marg with open space on which many vehicles can be parked and it is Therefore much better located than the premises of the lease deeds referred to above. It is also submitted that the appellant itself through its Manager Shri M.L. Sharma had admitted that as on August 2001, it was offered similar accommodation @ Rs. 60 per square feet per month.

6. Having regard to the fact that the premises in dispute are better located being in a two storey building with open space, the further fact that the witness of the appellant himself admitted that the similar accommodation was offered @ Rs. 60 per square feet per month in August 2001, as also the fact, that in August 1994, the premises in a multi storey building at Barakhamba Road were leased out at as high a rate as Rs. 105/- per square feet per month, we feel that on an overall view of the evidence brought on record, it will be reasonable, just and proper if the mesne profits are fixed @ Rs. 60 per square feet per month with effect from 1.1.1989 till the date of warrant of possession i.e. on or before 31.12.2005. The order and decree of the learned Single Judge to that extent stands modified. The amount which has been deposited in this Court be released to the respondent and the balance shall be paid within four weeks.

7. The appeal is disposed of in terms thereof.