

(1999) 08 DEL CK 0110

In the Delhi High Court

Case No : CM (M) 295 of 1998 and CM 1383 of 1998

Suresh Jindal

APPELLANT

Vs

International Marketing Co. and Another

RESPONDENT

Date of Decision : 03-08-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 5 Rule 20, Order 9 Rule 13

Citation : (1999) 81 DLT 351 : (1999) RLR 477

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Rajiv Behl, for the Appellant; Nemo, for the Respondent

Final Decision : Allowed

Judgement

Vijender Jain, J.—Nobody has been appearing in spite of respondent having been served. It is contended by Mr. Rajiv Behl, Counsel for the petitioner that the impugned orders passed by the Rent Control Tribunal as well as by the Trial Court have not been taken into consideration that the decree for eviction was passed on 25th March, 1988 after summons were issued to the respondent and the report on the summons was that premises was locked from many years. Subsequently, an application under Order 5, Rule 20 of CPC was moved by the petitioner which was allowed for service by publication. Respondent was served by publication. An ex-parte order was passed on 26th October, 1987 and eviction order was passed on 25th March, 1988.

2. It is a case of the petitioner that the possession of the premises was taken over through Court bailiff by the petitioner on 4th June, 1988 and the premises were again re-let on 15th August, 1988 and the same fact was stated in the reply filed by the petitioner to the application of the respondent under Order 9, Rule 13 of CPC which was filed on 2nd November, 1989. In any event of the matter as nobody has come forward in spite of service of summons on the respondent I deem the averments of the petitioner to be correct.

3. I set aside the orders of the Rent Control Tribunal as well as of the Additional Rent Controller in order to avoid the multiplicity of suits and in view of the fact that the respondent was served by substituted service and they have chosen not to appear in this Court after having been served. As a matter of fact, on 30th November, 1998 in spite of service, nobody appeared on behalf of the respondent however, the Court, in the interest of justice, deferred the order and adjourned the matter to March 3, 1999. Even on March 3, 1999 nobody appeared on behalf of the respondent.

4. The impugned orders of Rent Control Tribunal as well as of the Additional Rent Controller are set aside.