

PETITIONER:
SMT. VIDHYA DHARI BHAGAT

Vs.

RESPONDENT:
ALLAHABAD LAW JOURNAL CO. LTD.

DATE OF JUDGMENT 13/02/1990

BENCH:
SHETTY, K.J. (J)
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SHETTY, K.J. (J)
SAHAI, R.M. (J)

CITATION:
1990 AIR 1015 1990 SCR (1) 315
1990 SCC (2) 58 JT 1990 (1) 276
1990 SCALE (1) 245

ACT:
Delhi Rent Control Act, 1958: Sections 14, 19 and 21--Rein-
duction of tenant--When permissible.

HEADNOTE:

The appellant filed two eviction petitions against the respondent. The first of these was under section 14(1)(e) of the Delhi Rent Control Act, 1958, on the ground of personal bona fide requirement. The same was decreed in favour of the appellant, and the respondent was granted six months time to vacate the premises. This was in accordance with section 14(7) of the Act prohibiting the landlord from obtaining possession before the expiry of six months from the eviction order.

The second eviction petition filed under Section 14(1)(a) of the Act for non-payment of rent, was compromised between the parties, and the respondent agreed to put back the appellant in possession of the said premises. The tenant delivered possession of the premises. When the possession was delivered, six months period stipulated under Section 14(7) did not expire, for executing the eviction decree obtained in the first suit.

Owing to some reasons, the appellant could not continue in the premises and wanted to let out the premises to a third party. At that point of time, the erstwhile tenant filed an application under Section 19(2) of the Act claiming re-entry into the premises. The Rent Controller rejected the application. On appeal, the Rent Control Tribunal directed the appellant to put back the tenant in possession of the premises. A revision petition was filed by the appellant before the High Court. It was dismissed in limine. Appellant has preferred this appeal against the order of the High Court.

Allowing the appeal, this Court,

HELD: 1. Sub-Section (2) of s. 19 operates in favour of the tenant who has suffered an order of eviction under section 14(1)(e) or under Sections 14-A to 14-D and 21. The tenant may move the Rent Controller for a direction against the landlord to put him in possession of the

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premises or to pay him such compensation as the Controller

thinks fit, if the premises is not occupied by the landlord after recovering possession, or not occupied within two months by the person for whose benefit the premises are held. The tenant has a further right to move the Controller for such reliefs if the landlord has at any time within three years from the date of obtaining possession, re-let the premises to third party without obtaining permission of the Controller under sub-section (1) of Section 19, or the possession of such premises is transferred to another person not bona fide. If the possession is recovered under any order other than those referred to in sub-section (1) the tenant has no right to invoke the provisions of sub-section (2) of section 19. [318F-H; 319A-B]

2. In the instant case, the possession was actually delivered to the appellant by the tenant as per the compromise recorded in the suit based on arrears of rent under section 14(1)(a) and delivery of such possession cannot therefore, be referable to the decree for eviction under section 14(1)(e). In fact, that decree for eviction in Suit No. 288/77 was not put into execution and it was perhaps found unnecessary to execute that decree since the tenant has surrendered possession of the premises as per the compromise in Suit No. 330/77 based on arrears of rent. The application filed by the tenant under sub-section (2) of section 19 of the Act was, therefore, clearly not maintainable. [319E-F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3804 of 1989.

From the Judgment and Order dated 26.5.89 of the Delhi High Court in SAO No. 84 of 1989.

Dr. Y.S. Chitale, Mrs. and Mr. Rajan Karanjawala, Atul Chitale and H.S. Anand for the Appellant.

K.K Jain, J.P. Gupta, Mrs. Darshan Gupta and P.D. Sharma for the Respondent.

The Judgment of the Court was delivered by

K. JAGANNATHA SHETTY, J. This appeal is against the order for reinduction of the tenant into the premises under section 19(2) of the Delhi Rent Control Act, 1958 ('The Act').

The facts are these: The appellant filed two eviction petitions

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against the respondents; one was under section 14(1)(e) on the ground of personal bona fide requirement for occupation and the other was under section 14(1)(e) for non-payment of rent. The former suit was registered as Suit No. 288/77 and the later as Suit No. 330/77. On December 24, 1977 Suit No. 288/77 was decreed in favour of the appellant. The respondent was granted six months time to evict the premises. In fact the landlord has no right to evict the tenant for six months when the eviction order is made on the ground specified under section 14(1)(e). Section 14(7) prohibits the landlord from obtaining possession of the premises before the expiration of a period of six months from the date of the eviction order.

On April 17, 1978 the Suit No. 330/77 was compromised as between the parties. Under the compromise the appellant accepted Rs.6,000 as arrears of rent as against the claim of Rs. 29,000 in the suit. The respondent-tenant in turn agreed to put the appellant in possession of the premises. Accordingly, the tenant delivered the possession of the

premises,--a fact which is not in dispute.

It may be significant to note that when the tenant delivered possession of the premises, six months period provided under section 14(7) did not expire for executing the eviction decree obtained in Suit No. 288/77.

For some reason or the other the appellant could not continue in the premises. She has to let out the same to a third party. There then the tenant filed an application under sub-section (2) of Section 19 claiming re-entry into the premises. The Rent Controller rejected that application, but upon appeal the Rent Control Tribunal has given relief to the tenant directing the appellant to put back the tenant in possession of the premises. The High Court has dismissed the Revision Petition in limine.

It will be convenient if at this stage, we read sub-section (1) of Section 19 of the Act:

"19(1) Recovery of possession for occupation and reentry--Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of Section 14 (or under Sections 14-A, 14-B, 14-C, 14-D and 21), the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any

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part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises."

Sub-section (1) refers to recovery of possession of any premises from the tenant in pursuance of an order made under Section 14(1)(e) or under sub-section 14-A, 14-B, 14-C, 14-D and 21. The landlord shall not re-let such premises within three years from the date of obtaining possession from the tenant without the permission of the Controller.

Sub-section (2) of Section 19 is more important and must be set out in full:

"19(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by the person for whose benefit the premises are held, within two months of obtaining such possession or the premises having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under subsection (1) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be bona fide, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit."

This sub-section again operates in favour of the tenant who has suffered an order of eviction under section 14(1)(e) or under Section 14-A to 14-D and 21. The landlord after recovering possession of the premises does not occupy the same or it is not occupied by the person for whose benefit the premises are held, within 2 months of obtaining such possession, the tenant may move the Controller for a direction against the landlord to put him in possession of the premises or to pay him such compensation as the Controller thinks fit. Not merely that, the tenant has a further right to move the Controller for such reliefs if the landlord has at any time within three years from the date of obtaining possession, re-let the premises to third party without

obtaining permission of the Controller under sub-section (1) of section 19, or the

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possession of such premises is transferred to another person not bona fide. This right of the tenant to re-enter the premises is, however, restricted only in cases where the tenant is ordered to be evicted either under section 14(1)(e) or under sections 14-A to 14-D and 21. If the possession is recovered under any order other than those referred to in sub-section (1) the tenant has no right to invoke the provisions of sub-section (2) of section 19.

With these requirements of the statute, it may now be examined whether the tenant has a right to seek re-induction into the premises under sub-section (2) of section 19.

From the narration of facts it will be seen that the parties entered into a compromise in Suit No. 330/77 by which the tenant has willingly surrendered possession with payment of Rs.6,000 to the appellant as arrears of rent. On that day there was no execution of the decree for eviction obtained in Suit No. 288/77. It was, however, contended that the tenant willingly surrendered possession of the premises without waiting for the execution of the eviction decree in Suit No. 288/77 and there is no such bar for surrendering of possession under section 14(7) of the Act. We could have accepted this submission if there was only a decree for possession in Suit No. 228/77, but that is not so in the instant case. The possession was actually delivered to the appellant by the tenant as per the compromise recorded in the suit based on arrears of rent under section 14(1)(a) and delivery of such possession cannot therefore, be referable to the decree for eviction under section 14(1)(e). In fact, that decree for eviction in Suit No. 288/77 was not put into execution and it was perhaps found unnecessary to execute that decree since the tenant has surrendered possession of the premises as per the compromise in Suit No. 330/77 based on arrears of rent. The application filed by the tenant under sub-section (2) of section 19 of the Act was, therefore, clearly not maintainable.

In the result the appeal is allowed, and in reversal of the order of the Rent Control Tribunal as affirmed by the High Court, we restore the order of the Rent Controller. In the circumstances of the case, we make no order as to costs.

G.N.

Appeal allowed.

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