

REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO.4162/2009
(Arising out of SLP© No.10005 of 2008)**

Sarla Goel & Ors.

..Appellants

Versus

Kishan Chand

Respondent

J U D G M E N T**TARUN CHATTERJEE,J.**

1. Leave granted.
2. This appeal is directed against an order dated 12th of December, 2007 passed by a learned Judge of the High Court of Delhi at New Delhi in Civil Misc. (Main) No. 1103 of 2007, reversing the order dated 11th of July, 2007 passed by the Additional Rent Control Tribunal, Delhi in RCA No. 33 of 2007 direction eviction of the respondent from premises being no. 18/15, Mandir Wali Gali, Yusuf Sarai, New Delhi – 110 016 (in short, “the suit premises”) under Section 14(1)(a) read with Section 14(2) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the “Act”).
3. Before we proceed further, it may be noted at the threshold that this is a case of second default and the respondent having

once availed the benefit under Section 14(2) of the Act is not entitled to such benefit in case if it is held to be a second default.

4. The facts are not in dispute. The respondent is a tenant in respect of the suit premises. As noted herein earlier, it is not disputed that the respondent has already availed of the benefit of Section 14(2) read with Section 15 of the Act pursuant to an order dated 3rd of December, 2001 passed by the Additional Rent Controller, Delhi in Eviction Case No. E-105 of 1999. At the present juncture, it may be mentioned that the appellants is now facing the charge of committing second default in payment of rent to the appellants in respect of the suit premises. It is also not in dispute that a demand notice dated 31st of March, 2003 was served by the appellants upon the respondent intimating that the respondent was in arrears of rent for three consecutive months from January, 2003 onwards. It is also not in dispute that on receipt of the said demand notice from the appellants, the respondent had sent the arrears of rent for three months for the period from 1st of January, 2003 to 31st of March, 2003 by a money order dated 22nd of April, 2003. It is also not in dispute that the appellants had refused to accept the money order and

consequently, the money was refunded to the respondent. The case made out by the respondent was that he had duly complied with the provisions of the Act which was required to be done by him and therefore, it cannot be held that it was a case of second default whereas the case of the appellants either before the Rent Controller or before the High Court was that on refusal to receive the money order by the appellants, the respondent ought to have taken the recourse of Section 27 of the Act by depositing the aforesaid arrears of rent with the Rent Controller and he not having admittedly done so, was liable to be evicted from the suit premises on the ground of second default under Section 14(1)(a) read with proviso to Section 14(2) of the Act. Reliance was placed on behalf of the appellants before the High Court on a decision of this Court in **Atmaram Vs. Shakuntala Rani** [2005 (7) SCC 211]. The High Court, by the impugned order, however, held that in view of the admitted fact that as the rents were tendered by the respondent to the appellants and the appellants having refused to accept the same, the respondent had duly complied with the provisions of the Act and, therefore, there was no second default on the part of the respondent and accordingly, no order for eviction could be passed on the aforesaid ground. So far as the decision in **Atmaram's**

case (supra) is concerned, the High Court explained that the said decision cannot be said to have any application to the facts and circumstances of the present case as that was a case where the tenant had deposited a part of the arrears of rent under the Punjab Relief of Indebtedness Act, 1934 and his defence was that the amount that was deposited ought to have been treated as having paid to the landlord. It was also explained by the High Court in the impugned order that in the aforesaid decision, this Court held that the deposit made under the Punjab Act could be of no avail to the tenant and since the deposit was not made under Section 27 of the Act, the tenant could not claim the benefit sought by him. The decision was also distinguished by the High Court in the impugned order that in that decision, the Supreme Court was only considering as to whether the deposits of arrears of rent under the Punjab Act could be treated as payment of rent to the landlord. It was also observed that the tenant had not made any deposit and it was not his case that the arrears stood paid to the landlord. The High Court further held that in the present case, the tenant/respondent had tendered the rent by money order, which the landlord admittedly had refused to receive. So far as the interpretation of Section 27 read with Section 14(1) (a) of the Act is concerned, the High Court

said that this Section clearly says that the tenant would be entitled to protection if he either pays or tenders the arrears of rent within two months of the service of demand. That is to say, the tenant was required to either tender or pay the rent to earn protection. While interpreting the word “Neither” and “Nor”, the High Court observed that these words leave no manner of doubt that if there was a valid tender of rent within two months of the notice of demand, the tenant would be protected.

5. In this way, the High Court had observed that it was not the case of a second default and therefore reversed the order of the Rent Control Tribunal and directed that no order of eviction could be passed as this was not a case of second default.

6. We have heard the learned counsel for the parties. We have also examined the relevant provisions of the Act, namely, Delhi Rent Control Act and also the materials on record. After having examined the provisions of the Act as well as the impugned order and also the order of the Rent Control Tribunal, the only question that has arisen before us to decide in this appeal is whether the tenant/respondent had defaulted in payment of rent inasmuch as he had not deposited the rent with the Rent Controller for the

aforesaid period after the refusal by the landlord/appellants in the manner required by law. In order to decide this question, we, therefore, feel it appropriate at this stage to reproduce Section 14(1) read with Section 14(2) of the Act, Section 15 of the Act as well as Section 27 of the Act, which are required to be considered by us in this appeal.

Section 14 of the Act runs as under :-

Section 14 - Protection of tenant against eviction

(1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely: --

(a) that the tenant has neither paid nor tendered the whole of the arrears of the rent legally recoverable from him within two months of the date on which a notice of demand for the arrears of rent has been served of him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882 (4 of 1882);

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

(j)

(k)

(l)

(2) Omitted as not required.

Section 14(2) runs as under :-

No order for the recovery of possession of any premises shall be made on the ground specified in clause (a) of the proviso to sub-section (1) if the tenant makes payment or deposit as required by section 15:

Provided that no tenant shall be entitled to the benefit under this sub-section, if, having obtained such benefit once in respect of any premises, he again makes a default in the payment of rent of those premises for three consecutive months.

Section 15 of the Act runs as under :-

Section 15 - When a tenant can get the benefit of protection against eviction

(1) In every proceeding of the recovery of possession of any premises on the ground specified in clause (a) of the proviso to sub-section (1) of section 14, the Controller shall, after giving the parties an opportunity of being heard, make an order directing the tenant to pay to the landlord or deposit with the Controller within one month

of the date of the order, an amount calculated at the rate of rent at which it was last paid for the period for which the arrears of the rent were legally recoverable from the tenant including the period subsequent thereto up to the end of the month previous to that in which payment or deposit is made and to continue to pay or deposit, month by month, by the fifteenth of each succeeding month, a sum equivalent to the rent at that rate.

(2) If, in any proceeding for the recovery of possession of any premises on any ground other than that referred to in sub-section (1), the tenant contests the claim for eviction, the landlord may, at any stage of the proceeding, make an application to the Controller for an order on the tenant to pay to the landlord the amount of rent legally recoverable from the tenant and the Controller may, after giving the parties an opportunity of being heard, make an order in accordance with the provisions of the said subsection.

(3) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the amount of rent payable by the tenant, the Controller shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent in relation to the premises to be paid or deposited in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be until the standard rent in relation thereto is fixed having regard to the provisions of this Act, and the amount of arrears if any, calculated on the basis of the standard rent shall be paid or deposited by the tenant within one month of the date on which the standard rent is fixed or such further time as the Controller may allow in this behalf.

(4) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the person or persons to whom the rent is payable, the Controller may direct the tenant to deposit with the Controller the amount payable by him under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, and in such a case, no person shall be entitled to withdraw the amount in deposit until the Controller decides the dispute and makes an order for payment of the same.

(5) If the Controller is satisfied that any dispute referred to in sub-section (4) has been raised by a tenant for reasons which are false or frivolous, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

(6) If a tenant makes payment or deposit as required by sub-section (1) or subsection (3), no order shall be made for the recovery of

possession on the ground of default in the payment of rent by the tenant, but the Controller may allow such costs as he may deem fit to the landlord.

(7) If a tenant fails to make payment or deposit as required by this section, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

7. Chapter IV of the Act deals with Deposit of Rent.

Section 26 of the Act clearly says that if rent is paid, receipt of the same must be given by the landlord. Now, the important Section is Section 27 of the Act, which runs as under :-

8. Section 27 - Deposit of rent by the tenant

(1) Where the landlord does not accept any rent tendered by the tenant within the time referred to in section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant **may deposit** such rent with the Controller in the prescribed manner:

[Provided that in cases where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may remit such rent to the Controller by postal money order.]

(2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely: --

- (a) the premises for which the rent is deposited with a description sufficient for identifying the premises;
- (b) the period for which the rent is deposited;
- (c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;

(d) the reasons and circumstances for which the application for depositing the rent is made;

(e) such other particulars as may be prescribed.

(3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

(4) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order the amount of the rent to be paid to him in the manner prescribed:

Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (2) as claiming to be entitled to payment of such rent an opportunity of being heard and such order shall be without prejudice to the rights of such persons to receive such rent being decided by a court of competent jurisdiction.

(5) If at the time of filing the application under sub-section (4), but not after the expiry of thirty days from receiving the notice of deposit, the landlord or the person or persons claiming to be entitled to the rent complains or complain to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the tenant a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the said statements were materially untrue and may order that a sum out of the fine realised be paid to the landlord as compensation.

(6) The Controller may, on the complaint of the tenant and after giving an opportunity to the landlord of being heard, levy on the landlord a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the landlord, without any reasonable cause, refused to accept rent though

tendered to him within the time referred to in section 26 and may further order that a sum out of the fine realised be paid to the tenant as compensation.”

9. Relying on the aforesaid decision, which has been explained by the High Court in the impugned order namely **Atmaram's Case (Supra)**, learned counsel Mr. Arvind Kumar Gupta contended that in view of the mandatory provisions under Section 27 of the Act, which clearly says that if the rent is refused to be accepted by the landlord and as the procedure to be adopted by the tenant for payment of rent has been specifically provided in Section 27 of the Act and that procedure was not followed by the appellants after refusal by the landlord to accept the rent for the aforesaid period, that is to say, after such refusal, the tenant had not deposited the rent in compliance with Section 27 of the Act with the Rent Controller, it must be held that the tenant had defaulted in payment of rent by not depositing the rent, therefore it was a case of second default which entails the tenant of eviction. Strong reliance once again was placed by the learned counsel for the appellants on the decision in **Atmaram's case (Supra)**.

10. Mr.Gandhi, learned counsel appearing on behalf of the respondent, however, refuted the submission made by the learned counsel for the appellants. He has drawn our attention to Section 27 of the Act and submits that Section 27 cannot be said to be mandatory in nature and only an obligation has been created on the tenant either to pay the rent or tender or to deposit the same with the Rent Controller. In the present case, admittedly, tenant had tendered the rent to the landlord but he had refused to accept the same. After such refusal, it would be open to the tenant to deposit the same in the office of the Rent Controller but even if he does not do so, non deposit of the rent after such refusal cannot be said to be mandatory in nature which entails eviction of the tenant on the ground that he has committed second default and, therefore, he is liable to be evicted. It was further argued by the learned counsel for the respondent/tenant that in view of the word “may” used in Section 27 of the Act and the Act being a beneficial legislation for the tenant, it can never be said that the intention of the Legislature to use the word “may” was to mean that “may” must be construed as “shall”.

11. We are unable to accept this submission of the learned counsel for the tenant/respondent for the following reasons :-

It is true that in Section 27 of the Act, it has been provided that the tenant may deposit rent when such rent was not accepted or refused or no receipt was granted by the landlord or there was bonafide doubt as to the person or the persons to whom the rent was payable, the tenant may deposit such rent with the Rent Controller in the prescribed manner.

12. Chapter III deals with Control of Eviction of Tenants. Section 14 gives a specific right to the tenants to resist evictions. Sub-section (2) of Section 14 of the Act provides that no order for recovery of possession of any premises shall be made on the grounds specified in Class A of the proviso to sub-section (1) if the tenant makes payment or deposit the rent as required by Section 15.

13. An overall reading of Chapter III of the Act would clearly show that an additional protection has been given by the Legislature to the tenant who has committed default in payment of rent for which he is liable to be evicted under Section 14(1)(a) of the Act. Section

14(1)(a) of the Act clearly provides that when the tenant has neither paid nor tendered whole of the arrears of the rent legally recoverable from him within two months from the date of which a notice of payment of the arrears of rent has been served on him by the landlord in the manner provided in Section 106 of the Transfer of Property Act, 1882. A plain reading of sub-section (2) of Section 14 makes it clear that a tenant is protected from eviction if he makes payment or deposits the rent as required by Section 15. Section 15 deals with cases when a tenant can get the benefit of protection against eviction.

14. Accordingly, Section 14(1)(a) is a ground for eviction of a tenant for default in payment of rent. In spite of that, protection has been given under Section 15 of the Act to the tenant to avail of the protection given by the Legislature by depositing rent in the manner indicated in Section 15 of the Act. However, proviso to Section 14(2) of the Act takes away the right of a tenant of the benefit of Sub-Section (2) of Section 14 if the tenant having obtained such benefit once in respect of any premises and makes a further default in payment of rent of those premises for three consecutive months. Therefore, it has been made clear that when the tenant makes a

second default, no protection can be given to the tenant from eviction.

15. Chapter IV, however, deals with Deposit of Rent. Section 26 of the Act provides that if the rent is paid it is the obligation of the landlord to grant receipt for the rent paid to him. In default of payment of rent within the time specified therein, the tenant is also liable to pay simple interest at the rate of 15% per annum from the date on which such payment of rent is due to the date on which it is paid. The proviso to Section 26(2) of the Act makes it clear that it shall be open to the tenant to remit the rent to his landlord by postal money order. Sub-section (3) of Section 26 also makes the provision that if the landlord or his authorized agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (2), the Controller may, on an application made to him in this behalf by the tenant within two months from the date of payment and after hearing the landlord or his authorized agent, by order direct the landlord or his authorized agent to pay to the tenant, by way of damages, such sum not exceeding double the amount of rent paid by the tenant and the costs of the application and shall also grant a certificate to the tenant in respect of the rent paid. From a reading

of sub-section (3) of Section 26 of the Act, it is clear that the tenant has been given further protection to get the rent receipt from the landlord and in the event the landlord refuses to grant such receipt, the procedure has been clearly made by the Legislature for the purpose of getting the receipt under the Act and at the same time the landlord can be imposed to pay damages not exceeding double the amount paid by the tenant and the costs of the application and to obtain a certificate from the landlord in respect of the rent paid. Now we come to the most important provision regarding the procedure under the Act to pay or deposit or tender rent to the landlord, if he refuses to grant any receipt in respect of the payment already made to him. As quoted herein earlier, Section 27 deals with deposit of rent by the tenant. It clearly says that where the landlord does not accept any rent tendered by the tenant within the time referred to in Section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner. When the words “ bona fide doubt” has been added to Section 27, the tenant may remit such rent to the Controller by postal money order. From a conjoint reading of this provision referred to herein

above and particularly Section 27 of the Act, in our view, it cannot be doubted that the procedure having been made by the Legislature how the rent can be deposited if it was refused to have been received or to grant receipt for the same. If that be the position, if such protection has been given to the tenant, the said procedure has to be strictly followed in the matter of taking steps in the event of refusal of the landlord to receive the rent or to grant receipt to the tenant. It is well settled that whether the word “may” shall be used as “shall”, would depend upon the intention of the Legislature. It is not to be taken that once the word “may” is used by the Legislature in Section 27 of the Act, would not mean that the intention of the Legislature was only to show that the provisions under Section 27 of the Act was directory but not mandatory.

16. In other words, taking into consideration the object of the Act and the intention of the Legislature and in view of the discussions made herein earlier, we are of the view that the word “may” occurring in Section 27 of the Act must be construed as a mandatory provision and not a directory provision as the word “may” , in our view, was used by the Legislature to mean that the procedure given in those provisions must be strictly followed as the

special protection has been given to the tenant from eviction. Such a cannon of construction is certainly warranted because otherwise intention of the Legislature would be defeated and the class of landlords, for whom also, the beneficial provisions have been made for recovery of possession from the tenants on certain grounds, will stand deprived of them.

17. In **Mohan Singh and Ors. Vs. International Airport Authority of India and Ors. 1997 (9) SCC 132**, this Court while dealing with the intention of the Legislature to use the word “may” or “shall” observed in paragraph 17 as follows :-

“The distinction of mandatory compliance or directory effect of the language depends upon the language couched in the statute under consideration and its object, purpose and effect. The distinction reflected in the use of the word “shall” or “may” depends on conferment of power. In the present context, “may” does not always mean may. May is a must for enabling compliance of provision but there are cases in which, for various reasons, as soon as a person who is within the statute is entrusted with the power, it becomes duty to exercise. Where the language of statute creates a duty, the special remedy is prescribed for non-performance of the duty. In “Raise on Statute Law” (7th Edn.) it is stated that the Court will, as a general rule presume that the appropriate remedy by common law or mandamus for action was intended to apply. General rule of law is that where a general obligation is created by statute and statutory remedy is provided for violation, statutory remedy is mandatory. The scope and language of the statute and consideration of policy at times may, however, create exception showing that Legislature did not intend a remedy (generality) to be exclusive. Words are the skin of the language.

The language is the medium of expressing the intention and the object that particular provision or the Act seeks to achieve. Therefore, it is necessary to ascertain the intention. The word "shall" is not always decisive. Regard must be had to the context, subject matter and object of the statutory provision in question in determining whether the same is mandatory or directory. No universal principle of law could be laid in that behalf as to whether a particular provision or enactment shall be considered mandatory or directory. It is the duty of Court to try to get at the real intention of the Legislature by carefully analysing the whole scope of the statute or section or a phrase under Consideration. As stated earlier, the question as to whether the statute is mandatory or directory depends upon the intent of the Legislature and not always upon the language in which the intent is couched. The meaning and intention of the Legislature would govern design and purpose the Act seeks to achieve. In "Sutherland Statutory Construction" (3rd Edn) Volume I at page 81 in paragraph 316, it is stated that although the problem of mandatory and directory legislation is a hazard to all governmental activity, it is peculiarly hazardous to administrative agencies because the validity of their action depends upon exercise of authority in accordance with their charter of existence the statute. If the directions of the statute are mandatory, then strict compliance with the statutory terms is essential to the validity of administrative action. But if the language of the statute is directory only, the variation from its direction does not invalidate the administrative action. Conversely, if the statutory direction is discretionary only, it may not provide an adequate standard for legislative action and the delegation. In "Crawford on the Construction of Statutes" at page 516, it is stated that:

The question as to whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained, not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other...."

18. It is not in dispute that in this case, according to the landlord, this was a case of second default whereas the case of the tenant

was that since he has already tendered the rent to the landlord, who refused to receive the same, he had complied with the provisions of the Act. The tenant/respondent had already taken protection under the beneficial legislations of the Rent Control Act once and, therefore, he ought to have strictly followed the procedure given in Section 27 of the Act.

19. In **Atmaram's case (supra)**, this Court observed at paragraph 19 as under :-

"It will thus appear that this Court has consistently taken the views that in Rent Control Legislations if the tenant wishes to take advantage of the beneficial provisions of the Act, he must strictly comply with the requirements of the Act. If any condition precedent is to be fulfilled before the benefit can be claimed, he must strictly comply with that condition. If he fails to do so he cannot take advantage of the benefit conferred by such a provision" (Emphasis supplied).

20. Again in paragraph 20 of the same decision, this Court observed as follows :-

"Section 26 of the Delhi Rent Control Act, 1958 provides that every tenant shall pay rent within the time fixed by contract, and in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable. Every tenant who makes a payment of rent to his landlord shall be entitled to obtain forthwith from the landlord or his authorized agent a written receipt for the amount paid to him, signed by the landlord or his authorized agent. It is also open to the tenant to remit the rent to his landlord

by postal money order. The relevant part of Section 27 of the Act reads as under:-

"27. Deposit of rent by the tenant - (1) Where the landlord does not accept any rent tendered by the tenant within the time referred to in Section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner :

Provided that in cases where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may remit such rent to the Controller by postal money order."

21. This Court in the aforesaid decision, after examining Section 27 of the Act observed at paragraph 21 as follows :-

"The Act, therefore, prescribes what must be done by a tenant if the landlord does not accept rent tendered by him within the specified period. He is required to deposit the rent in the Court of the Rent Controller giving the necessary particulars as required by Sub-section (2) of Section 27. There is, therefore, a specific provision which provides the procedure to be followed in such a contingency. In view of the specific provisions of the Act it would not be open to a tenant to resort to any other procedure. If the rent is not deposited in the Court of the Rent Controller as required by Section 27 of the Act. and is deposited somewhere else, it shall not be treated as a valid payment/tender of the arrears of rent within the meaning of the Act and consequently the tenant must be held to be in default."

22. In **E. Palanisamy vs. Palanisamy (2003) 1 SCC, 123**, this Court while considering the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, which is similar to the Delhi Rent Control Act, observed at paragraph 4, 5 & 8 as follows :-

“4. It would be seen from the above provisions that while the landlord is required to issue a notice of default, on refusal by landlord to accept rent, the tenant is required to call upon the landlord by way of a notice to specify the name of a Bank in which rent could be deposited by the tenant to the credit of the landlord. If the landlord specify the name of the Bank to deposit the rent, there is an obligation on the part of the tenant to make the deposit of arrears of rent in the account of landlord. However, if the landlord does not specify the name of a Bank inspite of being called upon by the tenant through a notice, the tenant is required to send the amount of arrears through a money order to the landlord after deducting the commission payable on the money order. If the landlord still refuses to accept the rent, the tenant is entitled to file an application before the Rent Controller seeking permission to deposit the arrears of rent under Sub-section (5) of Section 8 of the Act.

5. Mr. Sampath, the learned counsel for the appellants argued that since the appellants-tenant had deposited the arrears of rent in Court, it should be taken as compliance with Section 8 of the Act. This would mean there is no default on the part of tenant in payment of rent and therefore, no eviction order could have been passed against the appellants on that ground. According to the learned counsel, the Court should not take a technical view of the matter and should appreciate that it was on account of refusal of the landlords to accept the rent sent by way of money orders that the tenant was driven to move the Court for permission to deposit the arrears of rent. Since there is a substantial compliance of Section 8 in as much as the arrears of rent stand deposited in Court, a strict or technical view ought not to have been taken by the High Court. We are unable to accept this contention advanced on behalf of the appellants by the learned counsel. The rent legislation is normally intended for the benefit of the tenants. At the same time, it is well-settled that the benefits conferred on the tenants through the relevant statutes can be enjoyed only on the basis of strict compliance with the statutory provisions. Equitable consideration have no place in such matters. The statute contains express provisions. It prescribes various steps which a tenant is required to take. In Section 8 of the Act, the procedure to be followed by the tenant is given step by step. An earlier step is a

*pre-condition for the next step. The tenant has to observe the procedure as prescribed in the statute. A strict compliance with the procedure is necessary. The tenant cannot straight away jump to the last step i.e. to deposit rent in court. The last step can come only after the earlier steps have been taken by the tenant. We are fortified in this view by the decisions of this Court in **Kuldeep Singh v. Ganpat Lal and Anr. 1996 (1) SCC 243** and **M. Bhaskar v. J. Venkatarama Naidu 1996 (6) SCC 228.***

8. *Admittedly the tenant did not follow the procedure prescribed under Section 8. The only submission that was advanced on behalf of the appellants was that since the deposit of rent had been made, a lenient view ought to be taken. We are unable to agree with this. The appellants failed to satisfy the conditions contained in Section 8. Mere refusal of the landlord to receive rent cannot justify the action of the tenant in straightaway invoking Section 8(5) of the Act without following the procedure contained in the earlier sub-sections i.e. Sub-sections (2), (3) and (4) of Section 8. Therefore, we are of the considered view that the eviction order passed against appellants with respect of the suit premises on the ground of default in payment of arrears of rent need no interference."*

23. Applying the principles laid down in *Atmaram's case (Supra)*, as noted herein earlier, and the decision in **E. Palanisamy (Supra)** and in view of our discussions made herein earlier and considering the object of the Act and the intention of the Legislature, we are in respectful agreement with the observations made by this Court in the aforesaid two decisions. In our view, similar facts had arisen in the present case.

24. It is not in dispute that the tenant/respondent had availed the benefit of Section 14(2) of the Act by its order dated 3rd of

December, 2001 passed by the Additional Rent Controller, Delhi. Since we have already come to the conclusion that since the tenant/respondent has failed to deposit rent in compliance with Section 27 of the Act because in the present case, admittedly, landlord/appellants had not accepted any rent tendered by the tenant/respondent within the time referred to in Section 26, it was the duty of the tenant to deposit such rent before the Rent Controller as prescribed in Section 27 of the Act. Admittedly, this step was not taken by the respondent which is mandatory in nature and, therefore, we must hold that the tenant/respondent had committed a second default in payment of rent and is, therefore, liable to be evicted from the suit premises.

25. In view of our discussions made hereinabove and considering the scope and object of the Act and the provisions of the same, we are of the view that the word “may” in the context of the Act, shall be construed as “shall” and therefore, the tenant shall deposit the rent after refusal by the landlord and, accordingly, having not done so, he is liable to be evicted.

26. That being the position, we are unable to sustain the order of the High Court and are of the view that the High Court was not

correct in holding that the tenant/respondent had not failed to pay or tender arrears of rent for the period mentioned herein earlier.

27. For the reasons aforesaid, the impugned order of the High Court is set aside and since the tenant/respondent having committed second default for which he is not entitled to be protected under the Act, the order of eviction passed by the Rent Controller must be restored.

28. Accordingly, the appeal is allowed. The impugned order of the High Court is set aside and that of the Additional Rent Control Tribunal is restored. There will be no order as to costs. 29.

Considering the facts and circumstances of the case, we grant six months time to the respondent to deliver peaceful actual physical possession of the suit premises subject to filing of a usual undertaking in this Court within a month from this date.

.....J.
[Tarun Chatterjee]

New Delhi;

.....J.

July 08, 2009.

[H.L.Dattu]