

CASE NO.:
Appeal (civil) 2846 of 1979

PETITIONER:
SOORAJMULL NAGARMULL

RESPONDENT:
DALHOUSIE PROPERTIES LTD. AND ANR,

DATE OF JUDGMENT: 30/03/1994

BENCH:
K. RAMASWAMY & N. VENKATACHALA

JUDGMENT:
JUDGMENT

1994(3) SCR 226

The following Order of the Court was delivered :

The litigation that has been carried on for over 40 years has now ended in a compromise entered into by the parties. Counsel appearing for the parties are directed to file in the Registry a deed of compromise, duly signed by parties within six weeks from today. That compromise shall comprise of the following terms : (1) That the appellant-tenant shall pay for the suit premises monthly rent of rupees two lakhs (Rs. 2 lakhs), commencing from January 1, 1994. The rents for the months of January and February, 1994 shall be paid on or before July 31, 1994. The rent for the month of March, 1994 shall be paid on or before 12th April, 1994. For subsequent tenancy months. The tenant shall pay the monthly rent on or before 12th of every succeeding month.

(2) All taxes, Municipal or otherwise payable in respect of the suit property shall be borne by the respondent-landlord.

(3) The tenant/appellant shall be liable to pay to the respondent/landlord as compensation for past use and occupation of the suit premises, as hereunder.

(i) For the period between 1.1.1979 and 31.12.1983 @ Rs. 15,000 (Rupees Fifteen Thousand) per month.

(ii) For the period between 1.1.1984 and 31.12.1988 @ Rs. 25,000 (Rupees Twenty Five Thousand) per month.

(iii) For the period between 1.1.1989 and 31.12.1993 @ Rs. 35,000 (Rupees Thirty Five Thousand) per month.

(4) The amounts payable as compensation for suit premises under Clause 3, less the amounts already paid towards rent and licence fee for the suit premises shall be the outstanding amount of compensation still payable by the tenant to the landlord.

(5) The Cheques/Drafts (numbering 136) handed over by the Appellant/tenant to the respondent/landlord towards payment of arrears of rent and licence fee, aggregating to Rs. 6,62,320 shall be returned to the Appellant/tenant and within 60 days of such return the appellant/tenant shall pay to the respondent/landlord the said amount of Rs. 6,62,320. This amount of Rs. 6,62,320 shall be adjusted against the amounts referred to under Clause 4 above as amounts already paid towards rent and licence fee towards suit premises and the balance amount remaining thereafter out of the total amount of compensation payable, shall be paid by the appellant/tenant in two and one half (2½) years in equal five half-yearly instalments.

If there is any default committed in payment of balance amount of compensation in equal five half-yearly instalments, agreed to the tenant shall pay interest on the amounts which may fall due @ 25% per annum from the date on which such amounts may fall due till date of payment.

Pursuant to the direction issued by this Court, the appellant had deposited a sum of Rs. 1,50,000 with the Registry of this Court and the same is standing to the credit of the Respondent in the appeal. The Respondent is permitted to withdraw the same. The Registry is directed to issue a Cheque or a Draft, as the case may be, in favour of the respondent for the said sum of Rs. 1,50,000. this amount also stand be adjusted against amount of compensation payable under Clause 3 above.

It is stated that from June 13, 1975 to November 15, 1979, a sum of Rs. 5,40,000 was paid to M/s M.G. Poddar, the Solicitor of the respondent/landlord by way of rent at the rate of Rs. 10,000 per month. It is stated by Shri Sibal, the learned counsel for the tenant/appellant that the amount shall be given credit towards compensation payable. On the other hand, it is stated by Mr. P.P. Rao, the counsel for the landlord/respondent that whatever was the arrears rent prior to 1.1.1979 that would be adjusted towards the such arrears and if there were to be any balance that would be given credit towards the compensation payable from 1.1.1979. Since we have not taken into account the arrears of rents and licence fee payable for the, suit premises prior to 1.1.1979, it is open to the parties to sit across the table and resolve the dispute as to what were the arrears prior to 1.1.1979 and from out of what outstanding balance amounts received by the landlord towards rents and licence fee, credit should be given to the tenant. Such balance amount shall be given credit towards the compensation payable on or from 1.1.1979. If there were to be any arrears outstanding prior to 1.1.1979, this settlement does not cover that period.

It is needless to mention that the concerned Bank with whom the cheques and Drafts were deposited and now lying, would renew and reissue the cheques and drafts after due relidation.

(6) It is agreed by .the appellant, that w.e.f 1.4.1994 they shall .not exhibit .any hoarding, on the demised premises and they shall surrender the licence which they had to the respondent/landlord.

(7) The appllant /tenant shall be entitled to carry out such renovations, repairs and non-structural alterations, including repairs or replace-ments of lilt or lifts or other mechanical equipments (like central air-conditioning) as may be necessary for the proper enjoyment of the suit premises and the respondent/landlord shall have no objection for the same. However, if any renovations, repairs or alterations are required to be carried out, it is open to the tenant/appellant to carry out the same without adversely affecting the main structure of the building, under intimation to the respondent/landlord. The costs of such repairs, renovations and alterations shall be borne by the appellant/tenant, and are not liable to reimbursed by the Respondent-landlord.

(8) That the respondent/landlord shall have no objection to the use and occupation of the suit premises by the .appellant/tenant and existing occupants already inducted by the appellant. No new occupant shall, however, be inducted.

(9) That the respondent/landlord shall not do anything that may cause hindrance or nuisance to the appellant/tenant in the proper use and occupation of the suit property.

(10) Jn all other respects the existing terms of tenancy of the suit premises shall continue to operate.

(11) That the parties hereto agree that save and except what is agreed to

herein, there are no other arrears on account of rent or compensation for use and occupation and/or licence fee in respect of the suit premises in question.

(12) This compromise shall dispose of the above appeal in the above terms, with no orders as to costs.

(13) This compromise will cover all outstanding disputes and litigation pending between the parties hereto in respect of properties/premises in question.

(14) This compromise has been arrived at in Court in the presence of the State of West Bengal's counsel and he had no objection to the compromise and its terms.

The appeal is accordingly disposed of. No costs.

JUDIS