

**Prithvi Raj Sachdev Vs. Deep Chand Ram Dass and Sons**

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**Court :** Delhi

**Decided On :** Oct-31-1975

**Reported in :** 12(1976)DLT141

**Judge :** H.L. Anand, J.

**Acts :** [Code of Civil Procedure \(CPC\), 1908](#) - Sections 10

**Appeal No. :** Civil Miscellaneous (Main) Appeal No. 202 of 1975

**Appellant :** Prithvi Raj Sachdev

**Respondent :** Deep Chand Ram Dass and Sons

**Advocate for Pet/Ap. :** Shyam Kishore and; B.R. Malik, Advs

**Judgement :**

**H.L. Anand, J.**

(1) By this petition under Article 227 of the Constitution of India, a tenant challenges an order of the Additional Rent Controller by which his plea for stay of proceedings in the petition for his ejection, pending the trial of a regular civil action filed by the landlords for the recovery of rent, has been turned down.

(2) It appears that while the tenant has at all material time been in occupation of the premises in dispute, there has been some controversy as to the person or

persons who could be said to be the landlords in relation to the premises. This controversy has its genesis in the death of one Deep Chand who, during his life time, had been carrying on business in partnership in the name and style of M/s Deep Chand Ram Dass and Sons. Apparently the property was owned by the partnership. The partnership was apparently reconstituted after his death. An earlier petition for the eviction of the tenant was withdrawn on the objection of the tenant that all the legal representatives of Deep Chand, deceased, had not been imp leded as petitioners. Apprehending that a part of the rent may pershaps become time barred, the landlords file a civil action for recovery of rent during the pendency of which they also filed the petition for the eviction of the tenant out of which the present proceeding have arisen. The principal contention of the tenant, both in the proceedings before the Additional Rent Controller as indeed, the civil Court, is as to the person or persons who became owner of the property on the death of Deep Chand. It appears that while considerable progress has been made in the suit, the proceedings before the Additional Rent Controller are still at a preliminary stage and an order under section 15(4) of the Act has been passed. The tenant sought stay of the proceedings pending before the Additional Rent Controller on the ground that both the proceedings involve common question as to title and the decision of the question in the suit would be binding and final but the plea was turned down by the impugned order on the ground that the provisions of section 10 of the Code of Civil Procedure were not applicable and that the Additional Rent Controller, being a Tribunal of limited jurisdiction, had no inherent power to stay the proceedings pending before it. It is this order which is challeged by the tenant.

(3) Shri Shyam Kishore, who appears for the tenant, contends on the authority of a judgment of the Division Bench of this Court in the case of Subhash Chander that the Controller has inherent power to stay the proceedings pending before it and urges that in declining to interfere on the ground that it had no such power, the Additional Rent Controller has failed to exercise jurisdiction vested in him by law. Learned counsel justifies the stay of proceedings on the ground that while the decision of the Additional Rent Controller on the question of title would neither be final nor constitute rest judicata in the proceedings in the civil action, the decision on the question in the Civil proceedings would conclusively determine that part of

the controversy and that ;it was, therefore, reasonable and proper that the Additional Rent Controller should have stayed these proceedings in exercise of its inherent power.

(4) Shri Bhagat Ram Malik, who appears for the landlords, however, contends that the Additional Rent Controller, being a Tribunal of limited jurisdiction, had no inherent power even though it was entitled to devise its own procedure, where the Act was silent with regard to any matter, to conclude the proceedings before it and distinguished the aforesaid decision. He submits that in any event, having regard to the well established, principles for the exercise of the inherent power of a Court, the impugned order was fully justified in the facts and circumstances of the present case and that, there was, therefore, no ground to interfere.

(5) After hearing the learned counsel for the parties, it appears to me that it is unnecessary to go into the question whether the Additional Rent Controller has the inherent power to stay the proceedings pending before him either on the principles analogous to section 10 of the Code of Civil Procedure or otherwise because even if an assumption is made in favor of such a power, the impugned order is eminently justified, having regard to the well established principles for the exercise of inherent power by a Court, and is just and proper in the facts and circumstances of the present case.

(6) The proceedings in the Civil Court for recovery of rent and those before the Additional Rent Controller for the eviction of the tenant are two distinct proceedings in which different reliefs are sought even though they involve a common question as to the title to the property. Even though, a decision by the authorities under the Delhi Rent Control Act with regard to title is not final for all purposes and does not bar a regular civil action for the determination of the question and a finding in such proceedings does not operate as re judicata in a suit, the Controller under the Act is nevertheless bound to decide the question when it arises before it and the decision is binding between the parties and is final, subject to the decision in the first and second appeals under the Act, for the purpose of the Act. The suit in the present case also could not be said to be an abuse of the process of the Court because it had to be filed by the landlords under

the compulsion of circumstances to which the tenant was partly a contributory because it was on his objection that all the legal representatives had not been impleaded in the earlier petition that the landlords had to withdraw that petition and file the present suit because in the meanwhile it was apprehended that the claim in respect, if rent for a certain period may become barred by time even though the contention of the tenant that all the legal representatives had not been impleaded in that application may ultimately be vindicated. The proceedings under the Act are of a summary nature and are required to be expeditiously disposed of while a regular civil action is likely to and usually takes considerable time. If, however, in the proceedings under the Act the landlords succeed, the tenant would still have his remedy by way of a suit for a declaration to get the necessary relief. To stay the proceedings under the Act, therefore, until the final decision of the civil action, would, in the circumstances, be unreasonable and on the contrary if such proceedings are allowed to continue, it is not likely to work any hardship to the tenant.

(7) It, however, appears to me that having regard to the fact that the question of title is common to both the proceedings and one of the parties to the civil action has already concluded his evidence on the question, the option must, therefore, be left to the parties to obtain appropriate direction, either by consent or otherwise, from either of the two forums so as to avoid multiplicity of proceedings and a possibility of conflicting decision.

(8) In the circumstances, I do not see any ground to interfere in the impugned order. The petition, therefore, falls and is hereby dismissed but, in the circumstances, without costs.

(9) The parties would, however, be at liberty to make appropriate motions, jointly or otherwise, either for the stay of the suit or for a direction that the evidence, recorded and to be recorded in the civil suit on the common question, would be treated as evidence in the proceedings under the Act with liberty to the parties to produce copies of such evidence in the latter proceedings so that the time of the Courts and the parties is, as far as possible, saved or to devise any other course of action which may obviate a duplication of the work and the possibility of a

conflicting decision on the common question. I can only hope and trust that it would be possible for the parties to devise such modus vivendi.

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