

ishwar Dutt Vs. Ram Piarey

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Court : Delhi

Decided On : Feb-24-1970

Reported in : 1974RLR302

Judge : Om Perakash, J.

Acts : Delhi Rent Control Act - Sections 14(1)

Appeal No. : Second Appeal No. 266 of 1969

Appellant : ishwar Dutt

Respondent : Ram Piarey

Advocate for Pet/Ap. : R.K. Makhija and; N.C. Kochhar, Advs

Judgement :

Om Perakash, J.

(1) Respondent sued appellant for eviction on the ground of second default. An order U/S 15(1) was passed which was complied with. His eviction was ordered and he filed first appeal and then second appeal claiming that he was not liable to eviction.] Paras 6 & 7 of order are :-

(2) The admitted facts are that, an application had been filed by the respondent for eviction of the appellant on the the 2nd April, 1962 on the ground of non payment

of rent. An order for the deposit of the arrears of rent was made in that application by the Additional Controller. The appellant had complied with that order and had deposited the arrears of rent. As a result, the application of the respondent was dismissed. The respondent had filed the second application, out of which the present appeal has arisen, on 30-3-66. The Additional Controller had, on the 21-2-67 passed an order directing the appellant to deposit the arrears of rent. The appellant had filed an appeal against that order. The appeal was dismissed by the Tribunal on the 6-11-67. The appellant had, thereafter, deposited the arrears of rent and the amount so deposited was withdrawn by the respondent. The argument of appellant was that as he had deposited arrears of rent in pursuance of the order of the Additional Controller, he could not be evicted because of provision of section 15(6) of Act. The argument, of the learned counsel for the respondent was that the provisions of section 15(6) were applicable only to the first default in the payment of rent and were not attracted when the default in the payment of rent was again committed. The argument in effect was that the proviso to sub section (2) of section 14 of the Act should be deemed to be a proviso to section 15(6) of the Act also. The learned counsel cited *Manmohan Chawla V. Jawant Singh*, 1969 D.L.T. 375 where in *V.S. Deshpande J.* had observed:-

'THE substance of the contents of section 14(2) and section 15(6) is the same. It is, therefore, difficult to draw any distinction between them. It is true that it is only section 14(2) which has a proviso. Section 15(6) does not have it. The reason is that section 14(2) expressly refers to the payment or deposit as required by section 15. The proviso to section 14(2) is, therefore, in effect a proviso to both, section 14(2) and the relevant provisions of section 15 viz.. Sub-sections (1), (3) and (6) thereof.'

(3) The aforesaid observations clearly support the argument of the learned counsel for the respondent. I am in agreement with the above observations.