

Ghani Mohammad Vs. Jamaluddin and ors.

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Court : Delhi

Decided On : Feb-17-1986

Reported in : 29(1986)DLT497

Judge : G.C. Jain, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 26, Rule 9; [Delhi Rent Control Act, 1958](#) - Sections 44

Appeal No. : Civil Miscellaneous (Main) Appeal No. 12 of 1986

Appellant : Ghani Mohammad

Respondent : Jamaluddin and ors.

Advocate for Pet/Ap. : S.N. Singh and; A.P.S. Ahluwalia, Advs

Judgement :

G.C. Jain, J.

(1) Respondent No. 1 tenant, moved an application under Section 44 of the Delhi Rent Control Act seeking the permission of the Controller to make repairs in the premises in his tenancy. It was alleged, inter alia, that there was a hole in the back wall and the plaster has lost its strength and the wall was likely to fall. The petitioner-landlord contested the application and alleged, inter alia, that the back wall has fallen by the overact of the tenant.

(2) In those proceedings the landlord moved an application under Order 26 rule 9, Code of Civil Procedure, for appointing a Local Commissioner to ascertain the facts on the spot. This application was dismissed by the learned Addl, Controller.

(3) The object of local investigation is not to together evidence which can be taken in court but to obtain evidence which from its peculiar nature can only be had on the spot. The fact whether the wall has fallen downer not can be proved by producing evidence. In any case the order is discretionary and calls for no interference in exercise of the powers under Article 227 of the Constitution. Dismissed.

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