

Pradeep Kumar Vs. Ranjit Kaur

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Court : Delhi

Decided On : Oct-11-1985

Reported in : 29(1986)DLT390

Judge : G.C. Jain, J.

Appeal No. : Second Appeal No. 335 of 1985

Appellant : Pradeep Kumar

Respondent : Ranjit Kaur

Advocate for Pet/Ap. : R.B. Andley and; Virender Mehta, Advs

Judgement :

G.C. Jain, J.

(1) Smt. Ranjit Kaur, the landlady obtained eviction order against S/Shri V.K. Malhotra and Pardeep Kumar, the present appellants, on October 19, 1982. Appeal filed against the order had been dismissed by the Tribunal and second appeal by this Court on 19th December, 1984. While execution proceedings were going on the present appellants filed objections stating that a new tenancy has been created in their favor. Under the new agreement a sum of Rs. 5,000.00 as security and other sum of Rs. 4,500.00 as advance rent for six months were paid.

(2) In those proceedings the appellant filed application for staying the execution till the disposal of his objections. Learned Additional Rent Controller refused to stay the proceedings. Appeal filed against the said order was dismissed by the Tribunal.

(3) Mr. Andley, learned counsel, contended that the landlady has executed an agreement and a receipt showing the new tenancy and, therefore, the appellant had a prima facie case.

(4) I have examined the facts and circumstances of the case. Both the courts below have come to the conclusion that prima facie documents on which reliance was placed were not genuine. In the facts and circumstances of the case, the appellant was not entitled to stay. The order is discretionary in nature. I do not find any justification for interference in the discretion exercised. It has been noted by the learned Additional Rent Controller that the appellant had earlier filed a civil suit which has been dismissed in which the stay was ultimately refused and appeal against the said order was dismissed by the learned Additional Senior Subordinate Judge. In view of these facts I find no infirmity in the order.

(5) Learned counsel relied on the 'decision of this Court in Chhotey and another v. Sh. Mohd. Yasin and others, 1977(2) Rcr 743 and contended that the objections would become infructuous if the stay was not granted. I do not subscribe to the view that a stay must be granted the moment somebody files objections. If that were the law, I feel no landlord decree-holder would ever be able to execute his decree. The decision on which reliance was placed turned on some different facts and is of no help. The appeal in my view has no merit.

(6) At this stage the learned counsel for the appellant prays for time for vacating the premises. It was pointed out that the appellant's wife is in family way. In the interest of justice, I allow time up to 30th June, 1986. This is subject to the condition that the appellant would file an affidavit in this Court within one month from today undertaking to handover peaceful and vacant possession of the premises in dispute on or before 20th June, 1986 392 and that he would not induct anybody else in the premises. Mr. Andley also stated at the Bar that the appellant would withdraw his objections.

(7) The attorney of the landlady is present in Court. He has no objection to the grant of time up to 30th June, 1986.

(8) In the above terms the appeal stands disposed of.

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