

Devi Dayal Dixit Vs. Rashtriya Electric and Engineering Co.

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Court : Delhi

Decided On : Oct-13-1982

Reported in : AIR1983Delhi432; 23(1983)DLT119; 1983(4)DRJ181; 1983RLR9

Judge : N.N. Goswamy, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 1, Rule 10

Appeal No. : Second Appeal No. 463 of 1981

Appellant : Devi Dayal Dixit

Respondent : Rashtriya Electric and Engineering Co.

Advocate for Pet/Ap. : Mohinder Narain and; H.C. Gulati, Advs

Judgement :

Goswamy, J.

(1) This second appeal is directed against the judgment and order dated 26th October, 1981 passed by the Additional Rent Control Tribunal whereby the respondents' appeal was allowed and he was imp leaded as a party under Order I rule 10 Civil Procedure Code . in the eviction petition filed by the petitioner here in. The petitioner landlord filed a petition for eviction against one Arjun Dass with respect to the property in dispute. During the pendency of the eviction petition, the present respondent filed an application under Order I Rule 10 of the Code of Civil

Procedure for being imp leaded as a party. It was alleged in the application that the suit premises, i.e. Shop No. 1831, Electric Market, Chandni Chowk, Delhi was taken on rent for a branch office of the firm M/s. Navyug Trading Corporation at Delhi and the rent deed was executed in the name of the said firm. It is further alleged that another firm by the name of Power Line Construction and Equipment Company was a sister concern of M/s. Navyug Trading Corporation. Similarly, the applicant firm is a sister concerned of M/s. Power Line Construction & Equipment Company and this firm has been occupying the premises and carrying on its business right from the inception of tenancy without any objection from the then owner or from the present owner till 1977. It is alleged that all along the rent was duly paid to the previous owner by the present respondent which was being accepted. The Additional Rent Controller dismissed the application, but in appeal, the application was allowed and the respondent was allowed to be imp leaded as a party.

(2) The learned counsel for the appellant herein has argued that the respondent has no interest in the property and the tenant was one Mr. Arjun Dass. Assuming that the respondent has been occupying the property as a sub-tenant or as representative of the original tenant, the same gives no right to retain the property and contest the eviction proceedings. He has referred to various judgments for the proposition that in a suit against lessee the sub-lessee is not a necessary party and is not entitled to be imp leaded He has also argued that merely because the parson has been in occupation of the premises for a long time, it does not entitle him to be imp leaded as a party in a suit by the landlord against the lessee. It is not necessary to deal with the said judgments as the point involved in the present appeal is entirely different, In the present case. the claim of the respondent is that he is a tenant in his own right and according to him, Arjun Dass has nothing to do with the tenancy at any stage. The documents such as the rent note and certain receipts now produced in this court did not form part of the record before the Additional Rent Controller or even before the Rent Control Tribunal. The Rent deed which has now been produced is allegedly executed by one Arjun Dass in favor of the previous owner of the property. If this rent-deed is found to be genuine and the petitioner is able to prove the same in accordance with law probably, the respondent will have no case but in the absence of the same it cannot be said that

the respondent has no interest in the proceedings or in the property in dispute. The respondent is certainly interested in showing That Arjun Was was never the tenant and the lease-deed has been executed by M/s. Navyug Trading Corporation and its interest subsists in the same. Under the provisions of Order I Rule 10 of the Code of Civil Procedure not only the court is competent but is required to add the name of any person who ought to have been joined, whether as a plaintiff or as a defendant or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit.

(3) In the present case, the Additional Rent Controller will have to decide as to who was the original tenant and whether the respondent herein had any right at any stage and those rights still subsist. All these matters can only be decided in the presence of the respondent otherwise there will be multiplicity of proceedings because the respondent has been admittedly in possession for quite some time before the institution of the petition for eviction.

(4) For the reasons recorded above, I do not find any merit in this appeal which is hereby dismissed. In the circumstances, I leave the parties to bear their own costs. The parties are directed to appear before the Additional Rent Controller on 22.11.1982. The records be sent back forthwith.