

Roneo Vickers India Ltd. Vs. Union of India and anr.

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Court : Delhi

Decided On : Mar-10-2000

Reported in : 2000IIIAD(Delhi)755; 85(2000)DLT337; 2000(56)DRJ194

Judge : Madan B. Lokur, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 14(1)

Appeal No. : CM. (M) No. 419 OF 1996 & CM Nos. 1694/98 & 1125/99

Appellant : Roneo Vickers India Ltd.

Respondent : Union of India and anr.

Advocate for Def. : Col. S.K. Kapur, Adv.

Advocate for Pet/Ap. : Mr. Sapan Baberta, Adv

Judgement :

ORDER

Madan B. Lokur, J.

1. The petitioner (successor of M/s. Vickers India Pvt. Ltd. which was amalgamated with M/s. Roneo Vickers India Ltd.) preferred a petition under Article 227 of the Constitution directed against the order dated 17th August, 1996 passed by the learned Rent Control Tribunal (hereinafter referred to as the Tribunal).

2. The narration of the facts of the case is quite cumbersome, but the question involved is extremely narrow and is really based on an appreciation of the facts of the case.

3. On or about 20th August, 1980, Respondent No.2 filed an eviction petition against the Petitioner in respect of the suit premises being No.136, Block No. 171, Sunder Nagar, New Delhi-110 003. According to respondent No. 2 the petitioner was liable to be evicted in view of the provisions of Clause (c) and Clause (k) of the proviso to Section 14(1) of [Delhi Rent Control Act, 1958](#) (hereinafter referred to as the Act).

4. By an order dated 27th February, 1987, the learned Additional Rent Controller dismissed the eviction petition with respect to the ground under Clause (c) of the proviso but upheld the contention of Respondent No. 2 in respect of Clause (k) of the proviso to Section 14(1) of the Act. Consequently, it was held that the petitioner was misusing the suit premises in a manner contrary to the lease deed executed between Respondent No. 2 and the principal lessor, that is, Respondent No. 1.

5. Feeling aggrieved with the order dated 27th February, 1987, the Petitioner filed an appeal before the learned Tribunal being RCA No. 506/87. This appeal was dismissed in limine on 21st May, 1987. This order has since attained finality.

6. Thereafter, as required by the provisions of Section 14(11) of the Act, notice was issued by the learned Additional Rent Controller to Respondent No. 1. to ascertain the misuse charges that were required to be paid and also to determine whether Respondent No.1 was prepared to condone the misuse of the suit premises or not.

7. Clause (k) of the proviso to Section 14(1) of the Act and Section 14(11) of the Act read as follow :

'14. Protection of tenant against eviction -

(1) Notwithstanding anything to the contrary contained in any other law or contract no order or decree for the recovery of possession of any premises shall be made

by any Court or Controller in favor of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:-

(a) to (j) xxx xxx xxx

(k) that the tenant has, notwithstanding previous notice, used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Development Authority or the Municipal Corporation of Delhi while giving him a lease of the land on which the premises are situate;

14 (11) - No order for the recovery of possession of any premises shall be made on the ground specified in clause (k) of the proviso to sub-section (1), if the tenant, within such time as may be specified in this behalf by the Controller, complies with the condition imposed on the landlord by any of the authorities referred to in that clause or pays to that authority such amount by way of compensation as the controller may direct.'

8. During the pendency of the proceedings before the learned Additional Rent Controller under Section 14(11) of the Act, Respondent No.1 filed the details (on 5th July, 1988) of misuse charges for the period from 15th July, 1980 up to 14th July, 1988. It appears that misuse charges up to 14th July, 1980 had already been paid by the petitioner through Respondent No. 2 to Respondent No.1. The extent of misuse charges claimed by Respondent No.1 for this period was Rs. 21,93,187/-. Before the learned Additional Rent Controller, the statement of one Shri A.C. Sehrawat, Assistant Settlement Commissioner in the Government of India was recorded on 26th September, 1988. According to this officer, there was no specific policy of the Government of India to stop the misuse permanently or not to condone the misuse even on a temporary basis from time to time subject to the payment of misuse charges.

9. In view of the statement of the Assistant Settlement Commissioner the learned Additional Rent Controller was of opinion that no eviction order could be passed

against the Petitioner and since Respondent No.1 was prepared to condone the misuse of the suit premises, he directed the Petitioner to pay to Respondent No. 2 or to deposit in Court the misuse charges as claimed by Respondent No. 1 in terms of the details filed on 5th July, 1988. This amount was required to be paid within a period of one month from the date of the order, that is, 26th September, 1988. The Petitioner was also directed to pay or deposit in Court the misuse charges that may be levied in future by Respondent No.1.

10. The Petitioner filed an appeal being RCA No. 565/88 directed against the order dated 26th September, 1988 passed by the learned Additional Rent Controller. Respondent No.2 filed her cross-objections in this appeal. By an order dated 22nd February, 1989, the learned Tribunal dismissed the appeal filed by the Petitioner as well as the cross-objections filled by Respondent No. 2. The learned Tribunal came to the conclusion that the Petitioner was obliged to pay the misuse charges demanded by Respondent No.1. This order passed by the learned Tribunal has also attained finality.

11. It appears that Respondent No. 2 had filed another eviction petition against the Petitioner under Clauses (c) and (k) of the proviso to section 14(1) of the Act. In that eviction petition, an order was passed on 21st January, 1994 requiring the Petitioner to deposit an amount of Rs. 3,94,159/- towards misuse Charges. This amount appears to have been deposited by the Petitioner on or about 16th March, 1994. However, the amount as per the details filed before the learned Additional Rent Controller on 5th July, 1988, that is, Rs. 21,93,187/- (minus Rs. 3,94,159/) remained unpaid despite the order dated 26th September, 1988 passed by the learned Additional Rent Controller and the order dated 22nd February, 1989 passed by the learned Tribunal.

12. Also sometime in 1994, the Petitioner filed CWP No. 2877/94 in this Court challenging, inter alia, the jurisdiction of Respondent No. 1 'periodically increase the ground rent chargeable on the continuance of the change - alteration in the nature of the land used i.e. from residential to commercial....' This writ petition is pending before a Division Bench of this Court. By an order dated 14th May, 1998, the writ petition was admitted and liberty was granted to Respondent No. 2 'to

approach the learned Single Judge before whom the eviction case is pending for decision of the case without waiting the decision this writ petition'.

13. On 26th August, 1977, learned counsel for the Petitioner made a statement in this case that without prejudice to his rights in CWP No. 2877/94 as well as his rights in this petition, his client is prepared to deposit an amount of Rs. 21,93,187/- minus Rs. 3,94,159/- already deposited on 16th March, 1994. On 4th November, 1977 a statement was made by learned counsel for the Petitioner that the amount has since been deposited. Consequently, it appears that misuse charges have been paid by the Petitioner up to 14th July, 1988.

14. It may be mentioned, on passant, that there have been subsequent demands of misuse charges made by Respondent No.1, as reflected in CM No. 1694/98 and CM No. 1125/99, but I am not concerned with them for the decision of this case. These applications are accordingly dismissed.

15. In the meanwhile, on 14th February, 1991, Respondent No. 2. filed an execution petition seeking the eviction of the Petitioner for not depositing the misuse charges in terms of the order dated 26th September, 1988 passed by the learned Additional Rent Controller or even the order dated 22nd February, 1989 passed by the learned Tribunal. While disposing of the execution petition, the learned Additional Rent Controller held in his order dated 4th March, 1995 that strictly speaking an execution petition was not the appropriate remedy because no final eviction order has been passed against the Petitioner. He, therefore, treated the Petition as an application for continuing with the eviction proceedings which were initiated on 20th August, 1980. I am of the view that the learned Additional Rent Controller rightly did not let technicalities come in the way of a decision on the substance of the case.

16. On merits, the learned Additional Rent Controller came to the conclusion that the Petitioner had failed to deposit the misuse charges as required by his order dated 26th September, 1988. He concluded that even after the dismissal of the appeal filed by the Petitioner and the cross objections filed by Respondent No. 2 on 22nd February, 1989 the Petitioner had failed to deposit the misuse charges. Consequently, the learned Additional Rent Controller came to the conclusion that

the Petitioner had forfeited his right to the protection of Section 14(11) of the Act. Accordingly, the learned Additional Rent Controller passed an eviction order against the Petitioner under Clause (k) of the proviso to Section 14(1) of the Act.

17. Feeling aggrieved, the Petitioner filed RCA No. 233/95. The appeal of the Petitioner was considered by the learned Tribunal and by its order dated 17th August, 1996, the learned Tribunal confirmed the finding of fact that the misuse charges had not been paid or deposited by the Petitioner pursuant to the orders dated 26th September, 1988 and 22nd February, 1989. Accordingly, the learned Tribunal confirmed the order of the learned Additional Rent Controller and dismissed the Petitioner's appeal with costs of Rs. 2,500/-.

18. When this petition was listed before me on 7th March, 2000, lawyers were abstaining from attending to their cases in the Courts. No one was present on behalf of the Petitioner to address arguments and the counsel who appeared, apparently at the instance of the Bar Association was not able to render proper assistance. No one appeared on behalf of Respondent No.1 also. Respondent No. 2 was represented by her son-in-law who stated that she was in her mid-eighties and in frail health. He stated that in view of the physical condition of Respondent No. 2 he wanted to go on with the case. Under these circumstances, I was not inclined to adjourn the matter and heard the submissions made on behalf of Respondent No. 2 and also perused the paperbook of the case.

19. There is a clear and concurrent finding of fact by both the Courts below that misuse charges for the period from 15th July, 1980 to 14th July, 1988 were required to be paid by the Petitioner and these charges were not deposited by the Petitioner within the period postulated by the order dated 26th September, 1988 and 22nd February, 1989. The only deposit made by the Petitioner was of an amount of Rs. 3,94,159/- out of a total demand of Rs. 21,93,184/-. This deposit does not even represent a substantial amount of the misuse charges. Moreover, even this amount was deposited by the Petitioner after a lapse of almost 5 years. Clearly, the Petitioner has not complied with the orders passed by the learned Additional Rent Controller and by the learned Tribunal.

20. The facts of the case clearly point to a wanton disregard of the orders of the Courts below by the Petitioner. The delay in making the payment of misuse charges is inexcusable but, quite apart from this, the Petitioner has not even sought condensation of delay in making the deposit. The consequence of the default (actually negligence) of the Petitioner is, to my mind, inescapable - the Petitioner made itself liable for eviction under Clause (k) of the proviso to Section 14(1) of the Act. The Petitioner was entitled to the benefit of Section 14(11) of the Act subject to its complying with the conditions imposed on Respondent No.2 by Respondent No.1 or paying to Respondent No.1 the amounts due within the time frame laid down by the learned Additional Rent Controller and the learned Tribunal. The Petitioner has failed to show any justification for protection under Section 14(11) of the Act.

21. Consequently, I see no reason to interfere with the orders passed by the Courts below and affirm their decisions to order the eviction of the Petitioner.

22. The petition is dismissed with costs of Rs. 5,000/- which will be in addition to the costs already imposed by the learned Tribunal.