

**Sunil Puri and ors. Vs. Modi Spinning and Weaving Mills Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/701612](http://sooperkanoon.com/701612)

**Court :** Delhi

**Decided On :** Feb-07-1995

**Reported in :** AIR1995Delhi203; 57(1995)DLT560

**Judge :** Arun Kumar, J.

**Acts :** [Code of Civil Procedure \(CPC\), 1908](#) - Order 96, Rule 1

**Appeal No. :** Regular Appeal No. 17 of 1993 and Second Appeal No. 12 of 1990

**Appellant :** Sunil Puri and ors.

**Respondent :** Modi Spinning and Weaving Mills Ltd.

**Advocate for Pet/Ap. :** Ravinder Sethi,; V.K. Makhija,; Rajiv Nayar,;

**Judgement :**

**Arun Kumar, J.**

(1) This is a review application under Section 114 read with Order Ixvii, Rule 1 and Section 151 of Code of Civil Procedure. The application seeks review of the judgment dated 10/03/1993 delivered by Hon'ble Ms.Justice Santosh Duggal. The application was filed on 17/04/1993, i.e. after the retirement of the learned Single Judge who had passed the judgment.

(2) An objection has been raised on behalf of the appellant/non-applicant that the application is an abuse of the process of the Court and has been filed knowing fully well that the Hon'ble Judge who decided the matter had retired. The judgment was dictated in open Court and if the applicant/respondent had any grievance the same could have been pointed out to the Court then and there rather than moving the present application after the learned Judge had retired on 20.3.1993.

(3) In reply to this objection it has been submitted on behalf of the applicant that the applicant tried to obtain copy of the order after the same had been dictated in open Court by way of inspection of the Court file. However, the file was not made available till the date of the retirement of the learned Judge. therefore, the application could not be filed earlier. Regarding failure to point out the points which according to the applicant remained unnoticed while the judgment was being dictated in open Court the reply is that the main Counsel who had argued the matter was not available and the junior Counsel who was present in Court when the judgment was being dictated did not consider it proper to disturb the learned Judge during dictation. It may be possible that the Court file was not made available to the applicant for inspection as stated by the applicant in the rejoinder<sup>3</sup> filed to the reply of the non-applicant but the Explanation for not pointing out to the Court the points which remained to be noticed in the judgment according to the petitioner is not sufficient enough. Immediately after the dictation was over such points could have been brought to the notice of the Court. The learned Judge retired on 20/03/1993 i.e. ten days after the dictation of the judgment in open Court and as per the case of the applicant the file remained in Court all throughout. The Counsel for the applicant could always mention the matter in Court and point out the points which according to the applicant remained unnoticed or called for review of the said judgment. I do not want to go further into this controversy since I have proceeded to consider the points raised on behalf of applicant in the present application on merits.

(4) I do not consider it necessary to refer to or dilate upon the arguments on behalf of the applicant regarding nature and scope of the power of review under Order 47 Civil Procedure Code I may only note that the submission on behalf of the learned Counsel for the applicant that at this stage I have only to consider whether to allow

review of the judgment or not and if I allow review I will have to enter the third stage of hearing of the review application on merits to the extent review of the judgment dated 10/03/1993 is allowed. However, during the course of hearing the learned Counsel for the applicant conceded that it is not necessary to have a gap between allowing review and embarking upon the third stage of considering there view on merits. He agreed that the two stages can be combined together for purpose of disposal of a review application.

(5) In order to appreciate the points involved in the present petition it is necessary to give certain basic facts. The appellants in the appeal are the owners/landlords of property No. 12, Friends Colony (West), New Delhi. The premises was let out to M/s. Modi Spinning and Weaving Mills Company Limited for a period of five years four months by means of an application filed before the Rent Controller under Section 21 of the Delhi Rent Control 'Act' (for short the Act) on 16.8.1977. The application came up before the Additional Rent Controller on 17.8.1977 when statements of the parties were recorded and by an order passed on the said date necessary permission was granted. The lease deed was executed between the parties on 18.8.1977 and was registered on 29.8.1977. Mr. Namo Narain, Company Secretary had been authorised by the Company to appear on behalf of the Company in these proceedings to make the necessary statements and sign the requisite papers. The possession of the tenancy premises was not handed over to the owners/landlords after the expire of period of limited tenancy which led the owners/landlords to move a second application, i.e. execution applications seeking possession of the premises in terms of the order under Section 21 of the Act the application was moved on 11/05/1983. The respondent-Company instead of vacating the premises filed objections to the execution through its Managing Director Mr. Yogendra K. Modi on 4/05/1984. The objections found favor with the Additional Rent Controller as well as the Rent Control Tribunal. therefore, the present second appeal was filed by the owners/landlords. The appeal Was allowed by the learned Single Judge of this Court on 10/03/1993. The respondent has sought review of the said judgment through the present application.

(6) As per the averments in the application the review of judgment dated 10th March, 1993 is sought on the following grounds:-

(A)(per paras 4 & 5 of review application) x xx till the date of expiry of the period of limited tenancy and in fact for a period of four and half years and thereafter, there was no order granting permission to create tenancy for a limited period against the respondent the respondent had no occasion whatsoever to come to the Hon'ble Court and file objections.'

The respondent here means M/s Modi Spinning and Weaving Mills Ltd.(hereinafter referred to as the Company). The arguments is that in the order granting permission under Section 21, the person named as tenant was NamonNarain and thereforee the Company was not the judgment debtor. The Company could not file objections. Further the grievance of the applicant in this behalf is:-'The Hon'ble Judge has construed the said argument of the Counsel for the respondent and not dealt with the same in the correct perspective.'(b) (per para 6 of review application)'That similarly another important argument on law raised by the Counsel for the respondent had been totally ignored. The submission of the Counsel for the respondent before this Hon'ble Court was that even the Supreme Court of India has, as late in Shrisht Dhawan's case reported in : AIR 1992 SC1555 , in the last line of para 17 of the judgment held that since the law as to the filing of the objections under Section 21 of the Act was not so clear earlier, objections should be considered on merits x xxx the request of the Counsel, thereforee,to go into the merits of the objections was declined and it was observed by theHon'ble Judge that she would not like to go into merits of the case. However,it has nowhere recorded in the judgment and order dated 10/03/1993that the findings of fact were not gone into at all.'

(7) I have heard the learned Counsel for the parties on the aforesaid points. So far as the first point is concerned it has been elaborately-dealt with in the judgment sought to be reviewed. In view of the settled law that if the objections against Section 21 permission are filed after the expiry of the period of lease, the same cannot be entertained, this argument has been devised on behalf of the applicant/respondent. The object behind the argument is to overcome the difficulty faced on account of the fact that the objections in the present case were filed after the expiry of the period of lease. It is submitted that the objector/respondent was not the judgment debtor at the relevant time and, thereforee, the question of filing

of the objections within the subsistence of the period Of lease did not arise. To support the argument it is said that in the order granting permission the name of Namo Narain was mentioned and, therefore, the Company was not named as the tenant and could not be the judgment debtor who had to deliver possession. The Company became judgment debtor only after the correction was allowed in the said order in August 1987 on an application moved on behalf of the appellant landlord in the Trial Court. Thus it is said that at best the Company be said to be getting a chance to file objections only thereafter. The question will arise: is this argument open to the Company when it filed the objection in 1984, i.e. much before the amendment was allowed in 1987?

(8) The judgment sought to be reviewed contains various details which clearly demonstrate that the said objection is wholly misconceived and is without any merit or substance. The same has been discussed at length and rejected. The question of review on this point, therefore, does not arise. The judgment notes that Namo Narain was the Company Secretary of the Company at the relevant time. He appeared and accepted the terms set out in the application under Section 21 of the Act as correct. The application was signed by him on behalf of the Company as Company Secretary and he further stated that he had been authorised to make statement on behalf of the Company by means of a letter of authority which is Ex.R-1. Permission was granted by the learned Additional Rent Controller on 17.8.1977 on the basis of the application made before him and the statements recorded by him. The lease deed executed on 18.8.1977 is on the same terms as set out in the draft lease deed filed Along with application under Section 21. The lease deed was duly registered on 29.8.77. The lease deed was signed on behalf of the Company by Namo Narain as Company Secretary. Preamble of the lease deed expressly stated that it was executed between the owners and landlord on the one hand and the Company as a lessee through Namo Narain on the other hand. The lease also contains a reference that the tenancy was pursuant to the order under Section 21 of the Act. That is not the end of the matter. Before expiry of the period of lease the Company had been called upon to hand over vacant possession of the premises by the landlords. On behalf of the Company a reply dated 6.12.1982 was sent through M/s Khaitan & Partners, Advocates by registered post, which is Ex.DHW I /1. There ply specifically

mentions that it was being sent on behalf of the Company. Thereby admits that the letting was on the basis of permission under Section 21 of the Act for a period of 5 years and 4 months. If the Company was clear and honest about this stand, why did it file the objections in response to the execution application? The objections were filed in the executing Court through Mr. Yogendra K. Modi as Managing Director of the Company. Mr. Modi has been in occupation of the premises. The letter of authority authorising Mr. Namo Narain to make statement on behalf of the Company is given by him on behalf of the Company. The learned Single Judge held that it was not a case where Modi was not in the picture at the time of the letting under Section 21 of the Act. In the background of the facts it was held:

'IT, therefore, does not now lie in the mouth of Mr. Modi who, for all purposes, is the objector in the case, being presently in occupation, and also being managing director of the respondent-company, who was shown as the proposed tenant, in the application and the draft lease deed, to now urge that the tenancy was in the name of Mr. Namo Narain x x x'

Further it has been observed:

'X x there is thus no merit or substance in the contention as strenuously urged by Mr. Tandon that Mr. Namo Narain was the real tenant, and till the amendment of the order under Section 21 had taken place, execution application itself was not maintainable against the company, as the Additional Rent Controller had rightly held that the real tenant, from the inception, was the Company and that was the real intention of the parties and that it was only a case of accidental slip that name of Mr. Namo Narain was mentioned in the order. To that extent, I do not find any error committed by the authorities below, in accepting the plea of the appellants that the respondent-company was the real tenant, and dismissing the preliminary objection of the respondent that the execution application was not maintainable against the Company, as name of Mr. Namo Narain, in the order has been rightly held to be a result of incidental slip, and what was required was only a clarification of the actual position, particularly when Mr. Namo Narain throughout represented himself to be the Secretary of the Company, and letting was intended to be in

favor of the Company, and he gave statement in Court on behalf of the Company, under letter of authority of very same Mr. YogendraK. Modi, who filed objections.'

(9) This point has been fully dealt with in the judgment sought to be reviewed and I do not consider that the first point enumerated above calls for review of the judgment dated 10.3.1993.

(10) Strictly the way this point has been taken in the review application (para 5 as already quoted above) the only objection is that the point has not been dealt with in the correct perspective. Firstly I do not agree that the point has not been dealt with in the correct perspective. Secondly, even if that were so this is no ground for review of the judgment so long as the point is dealt with and answered.

(11) The second point on which review sought is based on the following lines occurring at the end of para 17 of the judgment in Shrisht Dhawan's case reported in : AIR 1992 SC1555 'But since law was not so clear when the objection was decided by the Controller it is appropriate to examine if the finding on merits is sustainable'

(12) On the basis of these lines it is urged that inspire of holding that the objections filed for the first time at the time of execution based on fraud or collusion unless the tenant is able to establish that it was not known to him and he came to know of it for the first time only at the time of execution, cannot be entertained, the Supreme Court went on to examine the objections on merits in view of the fact that law was not so clear when the objections were decided by the Controller. It is submitted that in all cases of the relevant time the objections should be examined on merits ignoring the settled law that they cannot be examined on merits if they are filed after the expiry of period of lease. For purpose of review it is submitted that this point taken in this manner has neither been noticed nor examined by the learned Single Judge in the judgment sought to be reviewed and, therefore, the review must be allowed. This argument gives rise to some questions:

(I) Can on the basis of the said observation in Shrisht Dhawan 's case it be said as a matter of law that in all cases belonging to the relevant period objections even if

filed after the expiry of period of lease should be considered on merits?(ii) If this point has been otherwise dealt with in the judgment though not in so many words as suggested by the applicant, must review be allowed?(iii) Assuming that there is an exception to the rule that objections if filed after the expiry of period of lease cannot be entertained, this will be only when the objector is able to show that the fraud or collusion was not known to him earlier and he came to know of it subsequently. Can the applicant objector without claiming to be covered on facts under the exception, seek to take the benefit of the afore-quoted lines occurring in Shrisht Dhawan's case?

(13) Having given my careful consideration to all these aspects I am of the view that the applicant objector must fail on each ground and review must be rejected.

(14) Taking the last point first it is to be noted that the crucial lines relied upon by the applicant in Shrisht Dhawan are preceded by the following passage :-

'IN any case in absence of any averment in the application that he was not aware of various allegations made against the landlady in the application seeking invalidity of the permission granted by the Controller the application was liable to be dismissed. No exceptional circumstances so as to bring it within the principle laid down in Yamuna Maloo's (supra) case could be deciphered either from the application or from the statement of the tenant. Neither the Controller nor the Appellate Authority found any exceptional circumstances which could justify the tenant to resist the execution after expiry of the period. thereforee, the Controller was not justified in entertaining his objection and entering upon an enquiry which was roving in nature and wholly uncalled for'.

(15) In the present case the learned Single Judge found that the reply dated 6/12/1982 (Ex.DHW1/I) was sent on behalf of the Objector/Company to the landlord in which the contention advanced was that the real intention was that the tenancy would be a general tenancy and not circumscribed by any limit of period for which it was to subsist, and that it was only because of the facts and circumstances of the appellants that letting would be by means of an application under Section 21, and on the assurance that this was by way of formality, and that in case rent was paid regularly, and there was no other cause for complaint, then

the lease would continue. The plea of landlord that the premises was required by them for their own use and occupation was also repudiated in details set out in the reply. The Single Judge further found that the objections on merits were in substance reiteration of the same stand. Further nothing is said in the objections about any particular facts having been discovered subsequently, therefore, in the facts of the present case it is not even open to the applicant/objector to urge that its case can be covered under the exception to the rule, if there is any.

(16) The reply was given during the subsistence of the leaser. What is said in the objections is substantially the same as was said in reply dated 6/12/1982. Therefore, the objector cannot be heard to say that some facts showing fraud or collusion came to its knowledge subsequently. The objector is thus debarred from any benefit on the basis of the observations in *Shrisht Dhawan's* case relied upon by it.

(17) Now coming to the main point about the effect of the aforesaid observations at the end of para 17 of *Shrisht Dhawan's* case certain background has to be noticed. It is the applicant's own case that the law regarding how the objections are to be dealt with is Judge made law. Nowhere it is statutorily prescribed that the objections regarding creation of tenancy under Section 21 and permission granted by the Controller under the said provisions are to be filed within a specified time. The judgment in *S.B. Noronah v. Prem Kumari Khanna* 1979 (2) RCR 455 is generally taken as the starting point for discussion on this subject. The said judgment followed by *V.S. Rahi v. Smt. Rani Chambeli*, : [1984]2SCR290 contained the best that could be said for the tenants. Then came *J.R. Vohra v. M/s. India Export House Pvt. Ltd.* 1985 (1) RCR 368 which held that the contention that permission under Section 21 of the Act was obtained by fraud cannot be raised at the end of the tenancy. The issuance of warrant of possession by the Rent Controller without notice to the tenant after the expiry of period of tenancy was upheld. It was held that no prior notice is necessary to a tenant for putting landlord in possession of premises at the expiry of limited period tenancy. This was the other view which was most favorable for the landlord. All these judgments came up for consideration in *Yamuna Maloo v. Anand Swamp*, : [1990]1SCR715. Starting with *Naronah's* case the entire law on the subject up to

Vohra's case and also some subsequent judgments of the Supreme Court were considered. The conclusions are contained in para 21 of the report which is reproduced as under:-

'BOTH in Vohra's case and in Shiv Chander Kapoor's case though not arising for determination in either, it has been stated while laying down the rule that proceeding to challenge limited tenancy has to be taken during the currency of the tenancy, an objection filed by the tenant could be looked into is indeed an obiter. We would like to make it clear that the rule having been stated to the contrary in Vohra's case there was indeed no warrant to indicate the contra situations. Perhaps to meet the eventuality which might arise in a particular case neither of the two Benches of this Court wanted to close the avenue of the enquiry totally, and that is why in both the cases decided by coordinate Benches, the exception has also been indicated. It must be understood on the authority of the said two decisions and our judgment now that if the tenant has objection to raise to the validity of the limited tenancy it has to be done prior to the lapse of the lease and not as a defense to the landlord's application for being put into possession. We would like to reiterate that even if such an exercise is available that must be taken to be very limited and made applicable in exceptional situations. Unless the tenant is able to satisfy the Controller that he had no opportunity at all to know the facts earlier and had come to be aware of them only then, should such an objection be entertained.'

(18) In fact in Yamuna Maloo's case while discussing the earlier decisions of the Supreme Court in Vohra's case, it has been observed that question which had really come up for consideration before the Bench in Vohra's case was whether notice was necessary when the landlord applied to be put in possession after the termination of the tenancy? Objections on the ground of fraud and collusion were raised after the claim by the landlord for being put in possession but were rejected as belated. In that context it was found that the observations that tenant's objections could be enquired into if the tenant aliunde came to know of landlord's move and objective was not relevant for the decision. Further the above quotation from Yamuna Maloo's case makes it clear that the observations in some of the judgments that the objections filed by the tenant could be looked into are indeed

obiter. This leaves out no scope for any exception to the rule that any objections by the tenant which can be entertained must be filed during the subsistence of the lease.

(19) After Yamuna Maloo's case came Pankaj Bhargava & Am. v. Mohinder Nath & Anr., : AIR 1991 SC1233 . Again the entire law on the subject was discussed. This judgment further takes note of a judgment delivered by the Supreme Court in Subhash Kumar Lata v. R.C. Chhiba, : AIR 1989 SC458 . On the basis of this judgment the High Court had chosen to go into the merits of the objections filed by the tenant after the expiry of the period of lease in response to the notice of execution application filed by the landlord. The Additional Rent Controller as well as the Rent Control Tribunal had by concurrent findings of fact rejected the objections of the tenant on merits. However, the High Court had set aside the judgments of the authorities below and upheld the objections of the tenant on merits mainly basing itself on Lata's case (supra) so far as the question of entertaining the objections on merits was concerned. The Supreme Court after a careful consideration of all the relevant judgments on the point again reiterated that the objections even on the ground of fraud which were filed after the expiry of the period of limited tenancy could not be entertained and the appeal was allowed setting aside the judgment of the High Court. It is to be noted that the judgment of the High Court on merits of the objections was upheld. Still it was set aside on the point of law that the objections could not have been entertained on merits because they were filed beyond the period of lease.

(20) Certain observations of the Supreme Court in this judgment are worth noticing:

'IT is true that in Naronah's case a challenge to the validity of the limited tenancy was permitted even after the period of limited lease but later cases have substantially denuded this position. In Vohra's case : [1985]2SCR899 ,this Court laid down that a tenant who assails the permission under Section 21 on the ground that it was procured by fraud - a ground not dissimilar to the one urged in the present case - must approach the Rent Controller during the currency of the limited tenancy for an adjudication of his pleas as soon as he discovers facts and

circumstances which, according to him, vitiate the permission, x x x The reason why this requirement was built in the working rights and obligations under Section 21 was the need to reconcile and harmonise certain competing claims that arise in administering the scheme of Section 21.'

'THE manner in which the Court harmonised and re-concealed these competing and conflicting claims and interests was by insisting upon by the tenant to approach the Rent Controller for adjudication of his pleas as soon as he discovered that the initial grant of permission stood vitiated. This was evolved as a part of policy of law for reconciliation of divergent and competing claims.'

With reference to Lota's case (supra) it was observed:- 'IT is difficult to reconcile the observations in Subhash Kumar Lata's case : AIR 1989 SC458 with the pronouncements in other and later cases. In view of the pronouncements of this Court as to the limitations on the permissible challenge to the exercise of jurisdiction under Section 21, any appeal to the remedy based on concept of nullity and collateral attack is inappropriate.'

(21) Apart from the question of conflicting claims on the basis whereof the aforesaid view has been taken by the Apex Court I feel that to judge the bona fides of the stand of the tenant also it is important that the attack should have been made at the earliest. If the facts on the basis of which the challenge is laid were in existence at the time of grant of permission why should the tenant not have them tested before the authorities immediately? The mere fact that the challenge is made after the expiry of the period of lease shows that it is by way of an after thought and to gain time as far as possible in order to stick to the possession of the premises. Generally the facts on which the challenges are laid by the tenants in such cases belong to the stage of grant of permission under Section 21 which are known to the parties. When the necessary facts are available there is no reason why the tenant should not approach the authorities immediately if his challenge is bona fide, genuine and if he is serious about it. Just like the principle that fraud vitiates everything, it is equally important that fraud should be brought to light and appropriate remedies sought qua it at the earliest. Waiting to raise these question still the landlord applies for execution of the order leads to only one conclusion and

it is that it is an after thought and is intended to gain further time. For instance take the present case itself. The period of limited tenancy expired in December 1982 and we are in the year 1995. The landlord is yet to be put in possession of his property.

(22) The decision in Pankaj Bhargava's case (supra) leaves no scope for the proposition that the objections filed after the expiry of the period of limited tenancy can be entertained by the authorities under the Act.

(23) The last judgment in the series and which is the sheet anchor of The argument of the learned Counsel for the applicant/objector is Shrisht Dhawan v.M/s. Shaw Brothers, : AIR 1992 SC1555 . In my view the said judgment in no way disturbs the settled legal position as per the judgments in Yamuna Maloo & Pankaj Bhargava (supra). In fact in para 16 after noting certain observations in PankajBhargava's case it was observed: 'thus a tenant cannot wait for the entire period of lease and then raise objection to execution on fraud or collusion unless he is able to establish that it was not known to him and he came to know of it for the first time only at the time of execution. In other words the Controller shall not be justified in entertaining an objection in execution unless the tenant establishes, affirmatively,that he was not aware of fraud before expiry of the period of lease. To the followingextent, thereforee, the law on procedural aspect should be taken as settled:

'(1)Any objection to the validity of sanction should be raised prior to expiry of the lease.(2) The objection should be made immediately on becoming aware offraud, collusion etc.(3) A tenant may be permitted to raise objection after expiry of lease in exceptional circumstances only.(4) Burden to prove fraud or collusion is on the person alleging it.'As already noticed this is not the case of the tenant/objector that it came to know of the alleged fraud or collusion for the first time only attthe time of execution.

(24) The learned Single Judge has referred to all the aforesaid judgments of the Supreme Court and on the basis thereof held that objections of the tenant/objector cannot be gone into on merits. thereforee, the objector/respondent was not allowed to go into merits of the objections. When the Court has discussed all the

relevant judgments including the judgment in Shrisht Dhawalt's case on which reliance has been placed by the learned Counsel for the applicant/respondent and from the said judgments has culled out the proposition that the objections filed after the expiry of the period of lease cannot be entertained, it is not open to the applicant to say that this point has not been noticed or discussed in the judgment sought to be reviewed. It is not mandatory that the Judge while pronouncing a judgment must use the same language in which the argument has been advanced. What is to be seen is the substance and the findings and conclusions contained in the judgment. The ratio of the judgment sought to be reviewed clearly shows that the challenge based on merits of the objections was not permissible as per facts on record and as per the law. That is why after discussing the relevant judgments the prayer for going into merits of the objections was turned down.

(25) It will be seen that in Yamuna Maloo's case the period of limited tenancy expired on 30/09/1978. In Pankaj Bhargava the period of limited tenancy expired on 5/04/1983 while in the present case the period of limited tenancy expired in December, 1982. therefore, all the cases are of almost same period so far as the question of legal position prevailing at the relevant time is concerned. It will be recalled that in Pankaj Bhargava even though objections had been dismissed on merits by both the Courts below the High Court had allowed the objections on merits. The Supreme Court accepted the appeal, set aside judgment of the High Court in so far as it entertained the objections on merits. The prayer of the landlord for being put back in possession was granted.

(26) This also answers the submission of the learned Counsel for the applicant/respondent that his argument based on last three lines of para 17 in Shrisht Dhawan's case has not been noticed as such, much less discussed. The overall effect of the judgment in Shrisht Dhawan has been considered and, therefore, there is no scope for seeking review of the judgment on this specious plea.

(27) Summing up the legal position on the second point urged on behalf of the respondent/applicant for seeking review of the judgment dated 10/03/1993, it can be stated that the judgment in Yamuna Maloo's case cleared all the doubts by laying

down that objections if filed after the expiry of the period of limited tenancy cannot be entertained. Any observations in any other judgment to the contrary are to be treated as obiter. The judgment of the Supreme Court in Subhash Chander Lata's case remained unnoticed in Yamuna Maloo's case. Lata's case had cast some cloud on the proposition of law laid down in Yamuna Maloo's case. The cloud cast by Lata's case led this Court to uphold the objections of the tenant on merits, though they were filed after the expiry of the period of lease, in Pankaj Bhargava's case. The landlords in Pankaj Bhargava's case went to the Supreme Court against the judgment of this Court. As laid down in Yamuna Maloo's case the Supreme Court reaffirmed the legal position on the point, i.e. the objections filed after the expiry of period of limited tenancy could not be entertained. Shrisht Dhawan's case does not change the said legal position. The learned Counsel for the appellant on the basis of the observations of the Supreme Court in Shrisht Dhawan's case contained in last three lines of para 17 wants to again cloud the well established legal position. I do not think that on the basis of these lines in Shrisht Dhawan's case it can be said as a matter of law that objections must be entertained though filed after the expiry of the period of lease in all cases of the relevant period. This cannot be so for various reasons:-

(1) Yamuna Maloo and Pankaj Bhargava are also the cases of almost the same period as already noted herein-before. The objections were not allowed to be entertained on merits in these cases. (2) Shrisht Dhawan's case does not over-rule the decisions in Vohra, Shiv Chander Kapur, Yamuna Maloo and Pankaj Bhargava. If these cases containing the same consistent approach were to be over-ruled, this would have been done in a clear cut and specific manner rather than in an indirect manner as sought to be suggested by the learned Counsel for the applicants. (3) The fact that the Court chose to go into the objections on merits in Shrisht Dhawan's case cannot be said to be an authority for the proposition that as a matter of law in all cases of the relevant time objections must be gone into on merits by the executing Court. As held in Yamuna Maloo's case while interpreting similar observations in J.R. Vohra's case the observations may be treated as an order in the facts of the particular case.

(28) The learned Single Judge refused to go into the objections of the tenant on merits. She has noticed all the aforesaid judgments including the judgment in Shrisht Dhawan's case before coming to the conclusion that the objections cannot be entertained on merits. Law does not permit inquiry into objections filed after expiry of the period of lease. The learned Single Judge further noted that she had taken the same view on law in a couple of her earlier decisions on the same point and the Special Leave Petitions against those judgments were dismissed by the Supreme Court. In this background I am of the view that it does not lie in the mouth of the applicant to say that the submissions in this behalf had not been noticed much less discussed in the judgment sought to be reviewed. True that the judgment does not use the same language as used by the learned Counsel for the applicant before me. It is not necessary that in a judgment arguments be reproduced in as many words as advanced by a Counsel. We have to see the substance. Even if the argument was noted in the manner it has been phrased by the learned Counsel for the applicant in the present application, on merits it would not have made any difference in view of the reasoning of the learned Single Judge on the point in issue and the ratio of her decision. The ratio is clear and unambiguous. The arguments of the objector in this behalf already stands rejected in the judgment sought to be reviewed and there is no occasion for reconsideration of the same through the present review application.

(29) The application is thus totally devoid of any merit. The points on which review of the judgment dated 10/03/1993 is sought, stand fully answered in the judgment. The sole object behind the present review application appears to be to gain time in order to continue with the illegal occupation of the premises. The applicant has gained two years' time on the basis of the review application. The period of limited tenancy expired in December 1982. The tenant has already successfully stalled the process of putting the landlords in possession of the premises for over 12 years. The review application is mala fide and is in abuse of the process of the Court. The same is dismissed with costs quantified at Rs.10,000.00.