

Sh. Manjit Singh Vs. Sh. Sant Singh

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Court : Delhi

Decided On : Oct-27-2004

Reported in : 115(2004)DLT606

Judge : R.S. Sodhi, J.

Acts : Delhi Rent Control Act - Sections 14(1), 15(2) and 15(7); [Constitution of India](#) - Article 227

Appeal No. : CMM 101/2001 and CM 119/2001

Appellant : Sh. Manjit Singh

Respondent : Sh. Sant Singh

Advocate for Def. : S.P. Chugh, Adv.

Advocate for Pet/Ap. : Sonali Malhotra Sehgal, Adv

Disposition : Petition dismissed

Judgement :

R.S. Sodhi, J.

1. This petition is directed against the judgment and order dated 28.9.2000 of the Additional Rent Control Tribunal in RCA No. 500/2000 whereby the learned Judge has rejected the appeal of the petitioner arising from the order dated 27.5.2000 of

the Additional Rent Controller.

2. Brief facts of the case as noted by the Additional Rent Control Tribunal are as follows:-

'Appellant is a tenant. The respondent has sought his eviction on the ground U/s 14(1)(g) DRC Act i.e. bonafide requirement of the premises for the purpose of building or re-building or making thereto any substantial additions or alterations and such buildings or re-buildings could not be carried out without the premises being vacated.

During the pendency of the petition the order U/s 15(2) DRC Act was passed on 3.3.1999 directing the appellant to pay the arrears of rent within one month and also to continue to pay the future rent month by month by 15th of each succeeding month.

On his failure to comply with the order application U/s 15(7) DRC Act was moved by the respondent for striking out the defense of the appellant. Since till November, 1999 the appellant did not deposit any rent the application was allowed and the defense was struck off vide order dated 27.5.2000.'

3. It is contended by counsel for the petitioner that the petitioner was incapacitated and, therefore, could not deposit the rent in time as directed by order dated 3.3.1999. He submits that his Explanation ought to have been accepted and defense not struck off.

4. Heard counsel and perused the order under challenge. The Tribunal while dealing with the question has held that the petitioner has not been able to show that he had fallen ill or was confined to bed and that no medical certificate was annexed in the trial court or even in the appellate court. The Tribunal did not accept the bald statement and the affidavit without corroborative documents. Relying upon the judgment of the Supreme Court in Jain Motor Company v. Swayam Prabha 1996 RLR 163, the tribunal has rejected the appeal.

5. The medical certificate has been introduced in this court issued by Dr.K.K. Jain of Jain Medical and Maternity Hospital Jangpura, Bhogal. This certificate does not

even bear the date of issue and appears to be an afterthought trumped up document.

6. In view of the fact that the courts below have relied on judgment of the Supreme Court in support of their reasoning, I see no reason to interfere with the judgment under challenge. The present petition before this court is under Article 227 of the [Constitution of India](#) and scope of this court is very narrow and as has been held by the Supreme Court in M/s Bhojraj Kunwarji Oil Mill and Ginning Factory and Anr. Vs . Yograjsinha Shankersinha Parihar and Ors. : AIR 1984 SC1894 , Mohd. Yunus vs . Mohd. Mustaqim and Ors. : [1984]1SCR211 and M/s India Pipe Fitting Co. Vs . Fakruddin M.A. Baker and Anr. : [1978]1SCR797 . The Supreme Court in no uncertain terms has made it clear that the High Court's power of superintendence cannot be invoked to correct the error of fact or even of law. What is to be seen by the High Court is, whether the subordinate court has acted within jurisdiction or not?

7. In view of the same, I am of the opinion that the order under challenge gives adequate reason for arriving at its conclusion and suffers from no infirmity, perversity, impropriety, illegality or jurisdictional error warranting interference under Article 227 of the Constitution.

8. CM(M) 101/2001 is dismissed. CM 119/2001 also stands dismissed.

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