

**Ram Kishore Vs. Roopesh Kumar**

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**Court :** Rajasthan

**Decided On :** Jan-13-1982

**Reported in :** 1982WLN530

**Judge :** N.M. Kasliwal, J.

**Appeal No. :** S.B. Civil Revision No. 510/81

**Appellant :** Ram Kishore

**Respondent :** Roopesh Kumar

**Disposition :** Petition dismissed

**Judgement :**

**N.M. Kasliwal, J.**

1. This is a revision by the plaintiff against the order of the Additional District Judge No. 1 Alwar dated 13.10.1981.

2. Brief facts leading to this revision are that the plaintiff filed a suit for ejection and arrears of rent of the ground of default in the payment of rent and material alteration. It was alleged in the plaint that the real was not paid since 1.6.1974 and as such the defendant was a defaulter in the payment of rent. On 7.4.1977 the defendant moved an application Under Section 13(3) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (herein after referred to as the Premises

Act) to determine the amount of rent. The Court determined the rent on 14.4.1977 and directed the defendant to deposit a sum of Rs. 7380/- including interest within a period of one month. On 12.5.1977, the defendant No. 1 prayed for extension of time for depositing the said amount of rent and he was allowed to deposit the same by 12th July, 1977. It is not in dispute that on 11.7.77 the defendant deposited the aforesaid amount. On 12.12.1978 the plaintiff moved an application Under Section 13(6) of the Premises Act to the effect that the defendant had not paid rent since April, 1978 and onwards. The defendant in reply to the aforesaid application submitted that he had deposited all rent having fallen due. This application remained pending and the defendant moved another application and stated that as the Civil Courts had remained closed from 30.5.1977 to 26.6.1977 and had opened on 27.6.1977 but as he remained ill during the period commencing from 24.6.77 and ending on 10.7.77, he could not deposit the rent for the month of May, 1977 on the opening day of the Civil Courts i.e. on 27.6.1977 and had to deposit the same along with amount of arrears rent determined Under Section 13(3) of the Act on 11.7.1977. The defendant, therefore, prayed for condoning the delay in depositing the rent for the month of May, 1977. The learned trial court held that the defendant had not deposited the rent for the month of May, 1977 within time and therefore his defence against eviction is struck off. Aggrieved against the aforesaid order, the defendant filed an appeal which came up for consideration before the learned Additional District Judge. The learned Additional District Judge took the view that the Civil Courts were closed for summervacations upto 26.6.1977 and the defendant was entitled to 15 days from the reopening day of the courts i.e. 27.6.77. The appellate court was also satisfied that there was sufficient cause for extending the time and the rent having been deposited on 11.7.1977 was within 15 days of 27.6.77. Learned Additional District Judge, therefore, allowed the appeal and set aside the order of the trial court. Aggrieved against the order of learned Additional District Judge, the plaintiff has filed this revision.

3. It is contended by Mr. Lodha, learned Counsel for the petitioner that Under Section 13 (4) of the Premises Act the tenant was bound to deposit the amount determined by the court under Sub-section (3) within 15 days from the date of such determination or within such further time, not exceeding 3 months as may be

extended by the court. As regards the deposit of subsequent rent month by month, it was the duty of the tenant to deposit such rent or pay to the landlord month by month the monthly rent subsequent to the period up to which determination has been made by the 15th of each succeeding month or within such further time, not exceeding 15 days as may be extended by the court, at the monthly rate at which the rent was determined by the court under Sub-section (3). It is contended that under this provision the maximum period which could be granted by the court was 15 days from the 15th of each succeeding month and not beyond that. It is thus contended that in this case the rent for the month of May, 1977 was to be paid by the 15th June, 1977 and the maximum period up to which the court could have extended the time was 15 days more i. e. 30th June 1977. In the present case, the rent was admittedly deposited on 11th July 1977 and as such it was clearly in violation of the provisions of Sub-section (4) of Section 13 of the Premises Act and order of the lower appellate court was clearly without jurisdiction. Reliance in this regard is placed on *Bherulal v. Vali Mohammed* 1980 RLW 365 It is also contended that case relied upon by the lower appellate court was clearly distinguishable in as much as in that case the rent was deposited on the opening day after the summer vacations and there was no question of granting any further time thereafter.

4. In the present case there is no controversy as regards the amount determined under Sub-section (3) for which the time was extended by the trial court up to 12th July, 1977 and the same has been deposited by the defendant on 11. 7. 1977. The controversy is only with regard to the rent paid for the month of May 1977. There is no dispute that the Civil Court remained closed for vacation upto 26-6-1977. Thus in view of the provisions of the General Clauses Act and also the view taken in 1981 Raj. 61 the defendant was entitled to deposit the rent on the opening day i.e. on 27-6-77. The question further remains is whether the court could have granted 15 days thereafter as contemplated in Sub-section (4) of Section 13 of the Premises Act. The lower Appellate Court has believed that the defendant could not deposit the rent on the opening day an account of illness, Mr. Lodha did not challenge so far as the question that the learned lower court was satisfied about the ground of illness for not depositing the rent in time. 15 days time can be extended by the court from the date when the rent for a month has to be deposited by 15th of such succeeding month. The provisions of Section (4) of Section 13 are

penal provisions. The power to extend 15 days time is given for the benefit of tenant who on account of unavoidable reasons may seek extension upto 15 days from a court. Such beneficial provision should always be construed in favour of the defendant tenant, as this provision is beneficial legislation for tenant. It cannot be disputed that the defendant-tenant was entitled to deposit the rent on the opening day of the courts i. e. on 27. 6. 1977. If he was unable to deposit the same on account of illness then in my view the court was entitled to grant further 15 days time from that day in case the court was satisfied about the ground of illness. The power to extend 15 days time is contained in Sub-section (4) of Section 13 of the Act and this should be counted as 15 days from the opening day of the court and not from 15th June, 1977 as contended by the learned Counsel for the petitioner.

5. Thus I find no force in this revision petition and it is dismissed summarily.

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