

Ram Narayan and ors. Vs. Smt. Asha Devi and ors.

Ram Narayan and ors. Vs. Smt. Asha Devi and ors.

SooperKanoon Citation : sooperkanoon.com/850669

Court : Rajasthan

Decided On : Feb-02-2010

Judge : H.R. Panwar, J.

Appellant : Ram Narayan and ors.

Respondent : Smt. Asha Devi and ors.

Advocate for Pet/Ap. : Mr. V.K. Agarwal, Mr. R.K. Thanvi

Judgement :

H.R. Panwar, J.

1. All these aforementioned civil second appeals and civil revisions involve identical question of law and facts and therefore, with the consent of learned Counsel for the parties they are heard and decided together taking the facts of SBCSA No. 139/09 Ram Narayan v. Smt. Asha Devi as a leading case.

2. Briefly stated the facts to the extent they are relevant and necessary for the decision of these appeals and revisions are that the plaintiff respondent Smt. Asha Devi filed a civil suit against firm Ram Narayan Om Prakash for eviction of the disputed premises after serving notice under Section 106 r/w Section 114(h) of the Transfer of Property Act dated 6.10.2003. The suit came to be decreed by judgment and decree dated 16.8.2007 passed by Additional Civil Judge (Senior Division) No. 4, Bikaner (for short 'the trial court' hereinafter), against which, one

Ram Narayan the appellant herein filed an appeal before Additional District Judge No. 2, Bikaner (for short 'the first appellate court' hereinafter) impleading Smt. Asha Devi as respondent. In the appeal, the other partner of the firm namely Om Prakash has not been impleaded. Be that as it may, the issue of non-joinder was not joined by the respondent before the first appellate court. The appeal came to be dismissed by the first appellate court by judgment and decree dated 13.4.09. Hence the second appeal.

3. In this second appeal, a specific question has been raised as to whether the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (for short 'the Old Act of 1950 hereinafter') does not stand repealed in those areas where the State Govt. has not made the Rajasthan Rent Control Act, 2001 applicable. This Court formulated the following issues on 15.7.2009 : (1) Whether the Rajasthan Rent Control Act, 2001 has been made applicable to whole of the State of Rajasthan vide notification dated 21.3.2003 or it is applicable upon the municipal areas which are comprising the district headquarters? (2) Whether the Rajasthan Rent Control Act, 2001 has come into force upon the municipal areas or other areas of the State other than district headquarters under the notification dt. 21.3.2003 (3) Whether in view of Sub-sections (2) and (3) of Section 1 of the Rajasthan Rent Control Act, 2001, State is required to issue two notifications to give effect to the provisions of the Act or notification dated 21.3.2003 covers all the areas?

4. I have heard learned Counsel for the parties. Carefully gone through the judgment and decree impugned passed by the trial court as well as by the first appellate court.

5. Mr. R.K. Thanvi, Mr. Narendra Thanvi, Mr. V.K. Agarwal counsel appearing for the appellants as also Mr. B.L. Purohit and Mr. C.P. Soni counsel for revisionists, contended that the Old Act of 1950 has not been repealed in those areas where the Rajasthan Rent Control Act, 2001 (for short 'the New Act of 2001' hereinafter) was not made applicable which came into force w.e.f. 01.4.2003. In all these appeals and the revisions, the area involved is that the New Act of 2001 has not been made applicable even after repealing the Old Act of 1950 by Section 32 of the New Act of 2001. The Old Act 1950 came to be repealed by Section 32 of the

New Act 2001. Section 32(1) of the New Act, 2001 provides that the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (Act No. 17 of 1950) shall stand repealed with effect from the date notified under Sub-section (3) of Section 1 of this Act. Section 1 of the New Act, 2001 reads as under:

Section 1. Short title, extent and commencement.-(1) This Act may be called The Rajasthan Rent Control Act, 2001.

(2) It shall extend in first instance to such of the Municipal areas which are comprising the District Headquarters in the State and later on to such of the other Municipal area as the State Govt. may, by notification in the Official Gazette, specify from time to time.

(3) It shall come into force with effect from such date, as the State Government may, by notification in the Official Gazette, appoint.

6. The Notification issued by the Department of Local Self Government reads as under:

Notification

Department of Local Self Government

No. of 8(G)(11) (Rules)/01/1879.-In exercise of the powers conferred by Sub-sections (2) and (3) of Section 1 of the Rajasthan Rent Control Act, 2001 (Act No. 1 of 2003), the State Government hereby appoints 1st April, 2003 as the date, on which the said Act shall come into force and it shall extend to all the municipal areas which are comprising the District Headquarters of the State of Rajasthan.

7. Thus, the New Act of 2001 came into force w.e.f. 01.04.2003 to all the municipal areas which are comprising the District Headquarters of the State of Rajasthan.

8. It is contended by learned Counsel for the appellants and the revisionists that while notifying the date from which the New Act of 2001 came into force, no area has been mentioned and therefore, the New Act of 2001 applies to whole of the State and in alternate, according to learned Counsel for the appellants, the New Act of 2001 is a conditional Legislation and it do not repeal whole of the Old Act of

1950. According to learned Counsel for the appellants, the repeal of the Old Act of 1950 is in respect of those municipalities comprising the District Headquarters of the State of Rajasthan and for the remaining areas of the State of Rajasthan where the Old Act of 1950 was applicable prior to repeal continues to apply and therefore, the suit filed by the plaintiff under Section 106 of the Transfer of Property Act was not maintainable, on the contrary the suit ought to have been filed under the Old Act of 1950. Learned Counsel for the appellants have relied on decision of Hon'ble Supreme Court in re Article 143, Constitution of India and Delhi Laws Act (1912) etc. AIR 1951 SC 332 and in Ramesh Birch and others etc. v. Union of India and Ors. : AIR 1990 SC 560. Mr. B.L. Purohit appearing for the revisionist has relied on decisions of this Court in Ram Pal v. All Brahmin Swarnkar Panchayat and Ors. 2007 (3) DNJ 1363 (Raj.) and in Bhanwarlal and Ors. v. Rajendra Prasad and Ors. 2008 (2) DNJ (Raj.) 620 and contended that the decision rendered by this Court in Kanhaiya Lal v. Raja Ram and Anr. S.B. Civil Revision No. 445/04 decided on 2.12.2004 is per incurium and therefore, not a binding decision. Mr. R.K. Thanvi appearing for the appellants contended that a combined reading of Section 1 and Section 32 of the New Act of 2001, makes it clear that by Section 32, the Old Act of 1950 has been repealed only in respect of the areas to which the New Act of 2001 has been made applicable. It has been further contended that Section 2 and Section 30 of the Old Act 1950 on conjoint reading with Section 32(1) of the New Act, 2001, it makes clear that the Old Act of 1950 has not been repealed as a whole but only repealed to the extent of municipal areas comprising district headquarters. It has also been contended that in a suit filed under the Old Act of 1950 was dismissed, against which an appeal was filed and appeal was withdrawn with liberty to file a fresh suit under New Act of 2001 but it was filed under the Transfer of Property Act since the New Act of 2001 did not apply to the area in which the disputed property was situated and the Old Act of 1950 not being repealed as a whole, the suit under Transfer of Property Act was not maintainable.

9. Per contra, Mr. N.M. Lodha, learned Counsel appearing for the respondent submits that by the New Act of 2001, the Old Act of 1950 has been repealed as a whole. The relevant saving clause is Section 32 and Section 32 of the New Act of 2001 did not save the area to which the New Act of 2001 has not been made

applicable. According to Mr. Lodha, in the Old Act of 1950 saving clause was Section 30 and in Section 30 of the Old Act, 1950 there was a partial saving, whereas in the New Act of 2001 while repealing the Old Act of 1950 there has not been any partial saving or partial repeal. The repeal of the Old Act of 1950 is as a whole by Section 32 of the New Act of 2001 and the notification of the State Govt. dated 21.3.2003 whereby the New Act of 2001 was made applicable to all the municipal areas which are comprising the District Headquarters of the State of Rajasthan is in consonance with the language of Section 1(2) of the New Act of 2001 and Section 32(2) of the New Act 2001. According to Mr. Lodha, repeal of the Old Act of 1950 by Section 32 of the New Act, 2001 is from the date and not for the area, so what is relevant in the repealing provision is date from which the Old Act of 1950 came to be repealed. Mr. Lodha has relied on decision of this Court in *Kanhaiya Lal v. Raja Ram and Anr.* (supra). Learned Counsel appearing for the respondents have also relied on decision of this Court in *Laxmichand v. The Civil Judge (Sr. Division) Bhadra and Anr.*, S.B. Civil Writ Petition No. 1525/2006 decided on 11.8.2008, in *Rampal v. All Brahmin Swarnkar Panchayat and Ors.* (supra).

10. Mr. R.L. Jangid, Additional Advocate General, appearing for the State submits that the language of Section 32 of the New Act 2001 is implicitly clear by which the Old Act of 1950 was repealed from the date notified in the official Gazette and that is w.e.f. 1.4.2003 which was notified by the notification dated 21.3.2003 and therefore, the New Act of 2001 applies only to those areas mentioned in the Act and not in any other areas. According to Mr. Jangid, the Old Act 1950 has been repealed in whole of the Rajasthan from the date notified by the State Govt. which is 1.4.2003 as has been notified by notification dated 21.3.2003.

11. I have given my thoughtful consideration to the rival submissions made by counsel for the parties.

12. The question No. 1 framed by this Court is that whether the Rajasthan Rent Control Act, 2001 has been made applicable to whole of the State of Rajasthan vide notification dated 21.3.2003 or it is applicable upon the municipal areas which are comprising the district headquarters Section 32 of the New Act of 2001 reads

as under:

Section 32. Repeal and Savings.-(1) The Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (Act No. 17 of 1950) shall stand repealed with effect from the date notified under Sub-section (3) of Section 1 of this Act.

(2) The repeal under Sub-section (1) shall not affect,

(a) anything duly done or suffered under the enactment so repealed; or

(b) any right, title, privilege, obligation or liability acquired or incurred under the enactment so repealed; or

(c) any fine, penalty or punishment incurred or suffered under the provisions of the enactment so repealed.

(3) Notwithstanding the repeal under Sub-section (1),-

(a) all applications, suits or other proceedings under the repealed Act pending on the date of commencement of this Act before any Court shall be continued and disposed of, in accordance with the provisions of the repealed Act, as if the repealed Act had continued in force and this Act had not been enacted. However, the plaintiff within a period of one hundred and eighty days of coming into force of this Act shall be entitled to withdraw any suit or appeal or any other proceeding pending under the repealed Act with liberty to file fresh petition in respect of the subject matter of such suit or appeal or any other proceeding under and in accordance with the provisions of this Act and for the purposes of limitation such petition shall, if it is filed within a period of two hundred and seventy days from the commencement of this Act, be deemed to have been filed on the date of filing of the suit which was so withdrawn and in case of withdrawal of appeal or other proceeding, on the date on which the suit, out of which such appeal or proceeding originated, was filed;

(b) the provision for appeal under repealed Act shall continue in force in respect of applications, suits and proceedings disposed of thereunder;

(c) all prosecutions instituted under the provisions of the repealed Act shall be effective and disposed of in accordance with such repealed law;

(d) any rule or notification made or issued under the repealed Act and in force on the date of commencement of this Act shall continue to govern the pending cases.

13. The repeal and saving provision as provided in Section 32 of the New Act of 2001 makes it clear that the Old Act of 1950 shall stand repealed with effect from the date notified under Sub-section (3) of Section 1 of New Act, 2001 and by notification dated 21.3.2003, the New Act of 2001 has been made effective w.e.f. 1.4.2003, however, the New Act, 2001 has not been made applicable to all the areas of the State of Rajasthan but only limited to the municipal areas comprising the District Headquarters of the State of Rajasthan. In Section 32 of the New Act of 2001, it has nowhere been indicated that on notification notifying the date of commencement of New Act of 2001 if the New Act of 2001 is made applicable to certain areas then the provisions of Old Act of 1950 would continue to apply in respect of the other areas and therefore, by Section 32 of the New Act of 2001, no such saving clause has been provided. The Legislature intended to make the New Act of 2001 applicable from the date it is notified and the State Govt. in its wisdom notified the commencement of the New Act of 2001 w.e.f. 1.4.2003, however, limited the areas i.e. all the municipal areas which are comprising the District Headquarters of the State of Rajasthan. Though the notification does not spell out that for the remaining areas whether the New Act of 2001 will be made applicable or not but at any rate the language of Sub-section (2) of Section 1 of the New Act, 2001 is clear that it shall extend in first instance to such of the Municipal areas which are comprising the District Headquarters in the State and later on to such of the other Municipal area as the State Govt. may, by notification in the Official Gazette, specify from time to time. Thus, from the reading of Sub-section (2) of Section 1 of the New Act of 2001 it is clear that the State Govt. intended to make the New Act 2001 applicable in first instance to such areas i.e. all the Municipal area which are comprising the District Headquarters of the State of Rajasthan and later on such of other municipal areas. However, later on such of other municipalities has not yet been notified but it cannot be said that if such other areas are not notified then the Old Act of 1950 will continue to apply.

14. So far as issue No. 3 is concerned whether in view of Sub-sections (2) and (3) of Section 1 of the Rajasthan Rent Control Act, 2001, State is required to issue two notifications to give effect to the provisions of the Act or notification dated 21.3.2003 covers all the areas, the answer is obvious as has been discussed herein above that Sub-section (2) of Section 1 of the New Act of 2001 in clear terms provides that the New Act of 2001 shall extend in first instance to such of the Municipal areas which are comprising the District Headquarters in the State and later on to such of the other Municipal areas. The expression later on to such of the other Municipal areas is indicative of the fact that the State Govt. intended to extend the New Act of 2001 to such other areas but not at first instance but on the contrary it is at later stage and that stage has not yet come.

15. In re Article 143, Constitution of India and Delhi Laws Act (1912) etc. (supra) Hon'ble Supreme Court observed as under:

If the competent legislature had framed a statute and left it to an outside authority to extend the operation of the whole or any part of it, by notification, to any particular area, it would certainly be an instance of conditional legislation as 'discussed above and no question of delegation would really arise.

16. In Ramesh Birth and Other etc. etc. v. Union of India and Ors. (supra), Hon'ble Supreme Court while dealing with the question whether the statutory provisions under consideration envisaged an unwarrantable delegation of legislative powers to the executive Government, observed as under:

If the competent legislature has framed a statute and left it to an outside authority to extend the operation of the whole or any part of it, by notification, to any particular area, it would certainly be an instance of conditional legislation as discussed above and no question of delegation would really arise. The position would not be materially different, if instead of framing statute, the legislature had specified one or more existing statutes or annexed them by way of a schedule to the Act and had given authority to a subordinate or administrative agency to enforce the operation of any one of them at any time it liked to a particular area. It could still be said, in my opinion, that in such circumstances the proper legislature had exercised its judgment already and the subordinate agency was merely to

determine the condition upon which the provisions already made could become operative in any particular locality.

17. This Court in *Rampal v. All Brahmin Swarnkar Panchayat and Ors.* (supra) held that on the reading of the consequently amended Sub-section (2) also, it cannot be said that the Act is applicable to the municipal area of Merta City, in absence of any notification, published in Official Gazette, specifying the Act to have become applicable to this area. In that case, during pendency of the suit it was pleaded that the New Act of 2001 has become applicable and therefore, the suit for eviction filed under the Transfer of Property Act is not maintainable and the defendant sought to amend the written statement under Order 6 Rule 17 by incorporating the above facts. That application came to be dismissed and the order of dismissal of that application came to be challenged before this Court and this Court while considering the provisions of Sub-section (2) of Section 1 of the New Act of 2001 held that the Act of 2001 is not applicable to the areas other than specified by notification dated 21.3.2003 and Merta City not being a district headquarter, the Rent Act of 2001 is not applicable.

18. In *Bhanwarlal and Ors. v. Rajendra Prasad and Ors.* (supra), the question came up before this Court as to whether Rent Act of 2001 is applicable to the area of Dungargarh and this Court accepted the proposition laid down by this Court in *Rampal's* case (supra) and held that in view of the specific requirement of Section (2) of the Act of 2001 and for the view taken by this Court in *Rampal's* case (supra), the plea as taken by the petitioners remains untenable for want of requisite notification extending the Act to the area in question.

19. This question elaborately came to be considered by this Court in *Kanhaiya Lal v. Raja Ram and Anr.* (supra). In that case the trial court held that the New Act of 2001 has not been made applicable in the Merta, and by virtue of Section 32(1) of the New Act, the Old Act stands repealed. In that case, the suit was filed after serving notice under Section 106 of the Transfer of Property Act for recovery of possession and arrears of rent. It was contended by counsel for the petitioner therein that on the combined reading of the provisions of Section 32(1) of the New Act and Section 1 R/w Section 18 of the New Act, it is clear that the New Act

repeals the Old Act with effect from the date, the New Act is made applicable in the area concerned, where the Old Act had applied and till this is done, notwithstanding commencement of New Act, the Old Act continues to apply to those areas. The contentions raised in Kanhaiyalal's case (supra) and before this Court are almost identical. Herein also, it has been argued that the Old Act of 1950 does not stand repealed in those areas where the State Govt. has not made the New Act of 2001 applicable by notification dated 21.3.2003. Section 18 of the New Act, 2001 provides that the jurisdiction of the Civil Court is barred to decide disputes between landlord and tenant and the matters connected therewith and ancillary thereto and therefore, the suit filed by the landlord for ejectment of the tenant is not maintainable in the other provision except the Rent Control Act, 2001. Certain decisions of Hon'ble Supreme Court were also relied on which have been referred therein. This Court while considering provisions of Section 32(1) of the New Act of 2001 observed as under:

There is no case of any implied repeal, in as much as, even according to the contention raised by learned Counsel for the petitioner therein, the Old Act continues to apply to the areas, where the New Act has not been applied, while according to the learned court below the Old Act stood repealed w.e.f. 1.4.2003. Thus, it is clear that the present is the case of express repeal of the Old Act w.e.f. 1.4.2003 and the only question required to be considered, according to the learned Counsel for the petitioner is, as to whether notwithstanding repeal made by Section 32(1) of the New Act, the Old Act continues to apply to all areas, to which New Act has not been made applicable.

20. This Court further observed as under:

Such contentions raised are not acceptable for the simple reason that the relevant date under Section 32 for the purpose of finding out the date of repeal of the Old Act is, the date notified under Sub-section (3) of Section 1. Obviously the date notified is 1.4.2003. According to Sub-section (3) of Section 1, the New Act came into force with effect from the date, as the State Government may, by notification in the Official Gazette, appoint. It is not in dispute that the State Govt. appointed 1.4.2003 as the date from which the New Act of 2001 came into force.

21. It was further held that the language of Section 32(1) of the New Act 2001 clearly speaks about the date notified under Sub-section (3) of Section 1 of the Act and does not talk of extension of the Act to any particular area under Sub-section (1) or Sub-section (2) thereof. Thus, it is with coming into force of the New Act being 1.4.2003, the Old Act stands repealed in its entirety. It is under the New Act that notwithstanding this repeal, that certain rights have been saved expressly. The provisions of Section 32 do not at all contemplate that the tenancies prevailing, whether contractual or statutory, as on the commencement of the New Act shall continue to be governed by the provisions of the Old Act, in whatever geographical area of Rajasthan and on these premises, this Court held that on the face of express repeal of the Old Act by Section 32(1), it would be wholly preposterous a proposition to hold, that despite express repeal, the Old Act continues to remain in force, with respect to certain areas of the State, while the New Act applies to certain other specified areas of the State. While deciding the question of jurisdiction of Civil Court under Section 18 of the New Act, it was held that where the petition etc. are not filed under the provisions of the New Act, jurisdiction of civil court is obviously not barred. The last contention raised therein was that there has to be some law to provide protection to the tenant and for that purpose, the Old Act was there and, therefore, until and unless similar law prevails or is enacted, protection under the Old Act has to continue and this Court observed as under:

Suffice it to say that the submission has no legal basis, in as much as, tenancy, or lease is a matter of contract, and is governed by the terms of contract and the provisions of Transfer of Property Act, which makes elaborate provisions for creation of tenancy, its termination and the rights and liabilities of the respective parties to the contract of tenancy. The Rent Control Legislation only provided certain protection to the landlord or to the tenants, wherever, it was thought fit to be provided by the legislature and simply because for some time there happened to prevail certain Rent Law, it does not entitle the tenants to inherently claim protection of some rent control legislation, notwithstanding no one being in force or enacted by the Legislature.

22. In my view, the points formulated in all these appeals have been elaborately answered by this Court in Kanhaiyalal's case (supra). It cannot be said that the decision in Kanhaiyalal's case is per incurium and none of the provisions of either Old Act of 1950 or New Act of 2001 has not been taken note of, on the contrary all the relevant provisions resolving the controversy have been considered in Kanhaiyalal's case and therefore, the contention raised by Mr. B.L. Purohit learned Counsel for the revisionist that the decision in Kanhaiyalal's case is per incurium cannot be accepted. The relevant provisions to decide the controversy are Section 32(1) as also Section 1(1), (2) and (3) of the New Act 2001. By Section 32 of the New Act 2001, the Old Act of 1950 came to be repealed with effect from the date notified under Sub-section (3) of Section 1 of the New Act of 2001 and the date notified by notification dated 21.3.2003 under Sub-section (3) of Section 1 of the New Act of 2001 is 01.4.2003 by which the New Act of 2001 shall come into force and it shall extend to all the municipal areas which are comprising district headquarters of the State of Rajasthan and not in any other area and thus the application of the New Act of 2001 has to be confined to all the Municipal areas comprising district headquarters of the State of Rajasthan and in Section 32 of the New Act of 2001 there has not been any saving clause of any of the provisions of the Old Act 1950 except that the repeal under Sub-section (1) shall not affect anything duly done or suffered under the enactment so repealed or any right, title, privilege, obligation or liability acquired or incurred under the enactment so repealed or any fine, penalty or punishment incurred or suffered under the provisions of the enactment so repealed. It has further been saved that notwithstanding the repeal under Sub-section (1), all applications, suits or other proceedings under the repealed Act pending on the date of commencement of the New Act of 2001 before any Court shall be continued and disposed of, in accordance with the provisions of the repealed Act, as if the repealed Act had continued in force and this Act had not been enacted with certain exception to the plaintiff to withdraw the suit within a period specified therein with liberty to file fresh petition in respect of the subject matter of such suit or appeal or any other proceeding under and in accordance with the provisions of the New Act of 2001. Even permission for withdrawal of the suit under the Old Act of 1950 is limited to file fresh petition under the provisions of New Act of 2001, if the suit pending under

the Old Act, 1950 or on dismissal of the suit appeal pending against it can be withdrawn with liberty to file a fresh petition under the New Act of 2001 under Section 32.

23. In view of the aforesaid discussion in my view, the Rajasthan Rent Control Act, 2001 has been made applicable w.e.f. 1.4.2003 to those areas mentioned in the notification dated 21.3.2003 issued in exercise of the powers conferred under Sub-section (2) and (3) of Section 1 of the New Act 2001 and not in any other area and on repeal of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950, the Old Act, 1950, it shall not be applicable to the areas which have not been made applicable under the New Act by notification dated 21.3.2003. All these matters relating to a suit filed under Section 106 of the Transfer of Property Act and have been decreed by the trial court and on an appeal the decree of the trial court has been affirmed. There is concurrent finding of facts recorded by the courts below in respect of the appeals challenging judgment and decree of eviction and therefore, I do not find any error in the concurrent finding of facts recorded by two courts below.

24. Consequently, all these appeals and revisions stand dismissed. Stay petitions also stand dismissed. There shall be no order as to costs.

25. At this stage, counsel for the appellant Ram Narayan in SBCSA No. 139/09 Ram Narayan v. Smt. Asha devi and appellant Ashok Kumar Sharma in SBCSA No. 235/09 Ashok Kumar Sharma v. Manoj Kumar submit that the premises in dispute are being used for commercial and therefore, a reasonable period be granted to vacate the premises and the appellants Ram Narayan and Ashok Kumar Sharma would handover the peaceful possession of the suit premises on or before 31.7.2010 to the respondent landlord.

26. Having considered the facts and circumstances of the case, in my view, ends of justice would be met in granting the period to the appellant Ram Narayan in SBCSA No. 139/09 and appellant Ashok Kumar in SBCSA No. 235/09 to vacate the suit premises on or before 31.7.2010 on the following conditions:

(1) Both these appellants shall personally submit an undertaking supported by affidavit before the trial court within thirty days from today to the effect that on or before 31st July, 2010, they shall hand over peaceful and vacant possession of the premises in question to the respondent landlord. The appellants shall also undertake not to cause any damage to the premises in question; not to make any alteration; not to assign, sublet or in any manner part with possession to any other person; not to put the premises to any use other than the present use; and not to cause any nuisance.

(2) The appellants shall deposit within three weeks the arrears, if any, of the rent/ mesne profits and shall further pay to the respondent landlord the amount for use and occupation of the premises in question month by month or deposit this amount in the bank account of the landlord (particulars whereof may be furnished to the appellants within two weeks from today by the respondent landlord) month by month on or before 15th day of the next month.

27. It is made clear that upon both the appellants' failure to comply with any of the conditions aforesaid or violating any term of the undertaking, the respondent landlord shall be entitled to execute the judgment and decree in accordance with law.