

Pradeep Kumar Vs. Pukmani Devi

Pradeep Kumar Vs. Pukmani Devi

SooperKanoon Citation : sooperkanoon.com/955231

Court : Delhi

Decided On : Dec-10-2012

Judge : M. L. Mehta

Appellant : Pradeep Kumar

Respondent : Pukmani Devi

Advocate for Def. : Mr. Nirmal Singh

Advocate for Pet/Ap. : Mr. Narendra

Judgement :

* THE HIGH COURT OF DELHI AT NEW DELHI + CM (M) 834/2012 Date of Decision:

10. 12.2012 Petitioner PRADEEP KUMAR Through: Mr. Narendra, Advocate. Versus Respondent PUKMANI DEVI Through: Mr. Nirmal Singh, Advocate. CORAM: HONBLE MR. JUSTICE M.L. MEHTA M.L. MEHTA, J.

(Oral) 1. This petition under Article 227 of the Constitution is directed against the judgment dated 28.4.2012 of ARCT, North-West, whereby the appeal filed by the petitioner herein against the order dated 16.07.2011 of ARC, was dismissed.

2. The respondent had filed a petition of eviction on the ground of non-payment of rent under Section 14(1) (a) of the Delhi Rent Control Act (for short the Act) against the petitioner. The case of the respondent was that the petitioner was in

arrears of rent w.e.f. 22.12.2004. It was the plea of the petitioner that he had deposited the demanded rent w.e.f. 1.12.2003 to 22.12.2004 under Section 27 of the Act on 7.3.2005, and thus, the petition for his eviction was not maintainable.

3. The learned ARC passed the order under Section 15(1) of the Act on 1.9.2007, directing the petitioner to pay or deposit the arrears of rent within a month. The petitioner having failed to comply the said order, the respondent filed an application under Section 15(7) of the Act. Vide order dated 13.03.2009, the defence of the petitioner was struck off. The said order was challenged in the appeal, which came to be dismissed by ARCT vide its order dated 16.4.2010. The petitioner challenged this order before this court vide CM(M) 710/2010, which also came to be dismissed on 24.5.2010. Ultimately, the petition was put on trial and vide judgment dated 16.07.2011, the ARC declined to give benefit under Section 14(2) of the Act, and consequently, passed the eviction order. The petitioner carried the matter in appeal before ARCT, which came to be dismissed vide impugned judgment. The same is under challenge in the instant petition.

4. Learned counsel for the petitioner submits that the petitioner had complied the order under Section 15(1) of the Act by making a deposit under Section 27 of the Act, and thus, the order under Section 15(7), was not tenable.

5. This has already been observed by ARC as also ARCT that the petitioner was in arrears of rent at the time of issue of notice and that he had not paid or deposited the legally recoverable arrears of rent, which were demanded vide the demand notice dated 22.12.2004. It is also observed by both the courts below that the petitioner had been claiming to have deposited the rent under Section 27 of the Act, but, had failed to prove the same before the ARC. It was also observed that in any case, the petition under Section 27 of the Act for deposit of rent covering period 1.12.2003 to 31.1.2005 was dismissed for nonprosecution on 20.09.2006. It was noted by the ARCT, and rightly so, that the submission that was made before the ARC was that the rent was deposited from 1.3.2004 to 31.1.2005 @ 237.50/- per month whereas the rate of rent being Rs.360/- per month was not in dispute, and thus, the deposit of rent, if any, @ Rs. 237.50/- per month was not valid. On being asked to clarify, learned counsel for the petitioner

could not respond in this regard. In any case, when the petition under Section 27 already stood dismissed for non-prosecution on 20.09.2006, this argument that he had deposited, was a frivolous one.

6. The defence of the petitioner having been struck off on account of non-compliance and the said order having attained finality upto this court, the learned ARC rightly declined to grant benefit of Section 14(2) of the Act to the petitioner. This order was rightly upheld and maintained by the ARCT. There being no infirmity or illegality in the impugned orders of both the courts below, the petition has no merit and stands dismissed in limine. M.L. MEHTA, J.

DECEMBER 10 2012 akb

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com