

\$~117 (2022 Cause List)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
***Decided on: 28<sup>th</sup> February, 2022***

+ **CM(M) 191/2022**

PARAMJEET SINGH ..... Petitioner  
Through: Mr. Durgesh Gupta, Advocate.

versus

MAHAVIR PRASAD ..... Respondents  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

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**CM APPL. 10371/2022 & 10373/2022** (*exemption*)

Exemption allowed, subject to all just exceptions.

The applications stand disposed of.

**CM(M) 191/2022 & CM APPL. 10372/2022** (*stay*)

1. By way of this petition under Article 227 of the Constitution, the petitioner-tenant assails an order of the learned Principal District and Sessions Judge (HQ) and Rent Control Tribunal (Central), Tis Hazari Courts, Delhi [hereinafter, "the Tribunal"] in RCT No. 55/2018 [*Mahavir Prasad vs. Shri Paramjeet Singh*]. By the impugned order, the Tribunal has partly allowed the appeal of the respondent-landlord against an order of the Rent Controller dated 28.02.2018, by which the eviction petition filed by the landlord [E. No. 79974/2016] was dismissed by the Rent Controller.

2. The landlord filed the eviction proceedings against the tenant in respect of a shop bearing No. A-11, Property No. 773, Chabi Ganj, Kashmere Gate, Delhi-110006 [hereinafter, “the suit property”] under Sections 14(1)(a) and 14(1)(b) of the Delhi Rent Control Act, 1958 [hereinafter, “the Act”]. The case of the landlord was that the suit property was owned by his deceased father Late Shri Deep Chand who had inducted the tenant into the property at a monthly rent of ₹125/-. The landlord claimed that the suit property was bequeathed to him by way of a will of Late Shri Deep Chand dated 16.10.1995. Contending that the tenant was in arrears of rent since 01.04.2002, which had not been tendered despite service of demand notices, and that the tenant had inducted a sub-tenant into the premises, the landlord sought eviction of the tenant.

3. The tenant admitted his status as a tenant, but denied the relationship of landlord and tenant between the parties. It was alleged that Late Shri Deep Chand was collecting the rent on behalf of a trust of Dharamshala Shree Chander Dev Bhagwan [hereinafter, “the Trust”], and that the Trust was in fact the owner of the suit property.

4. After recording evidence, the Rent Controller dismissed the eviction petition on the finding that the landlord had failed to prove that he is the owner or the landlord of the suit property, and that the tenant therefore had no liability to pay rent to him. It was also held that the alleged sub-tenancy was not proved on evidence.

5. In appeal by the landlord, the Tribunal has affirmed the view taken by the Rent Controller, so far as the question of sub-tenancy [referable to Section 14(1)(b) of the Act] is concerned. However, on the question of non-payment of rent [referrable to Section 14(1)(a)],

the Tribunal has reversed the view of the Rent Controller, and passed an order of eviction.

6. Having heard Mr. Durgesh Gupta, learned counsel for the petitioner-tenant, I do not find any ground for interference with the view taken by the Tribunal in exercise of jurisdiction under Article 227 of the Constitution. The Tribunal has, on the question of the relationship of landlord and tenant between the parties, come to the following findings:-

*“12. The fulcrum of this appeal hinges upon the relationship of tenancy between the parties in the light of admitted position that the respondent had been inducted as a tenant by Shri. Deep Chand, the now deceased father of the appellant. As regards relationship of tenancy between the parties, it would be significant to notice that in his pleadings, as well as evidence, the respondent admitted repeatedly and in no uncertain terms that he had been inducted as tenant into the tenanted premises by Shri Deep Chand.”*

*13. In the pleadings before the Rent Controller and even before the competent authority under the Slum Areas Act, the respondent tenant did not specifically deny the relationship of father and son between Shri Deep Chand and the appellant. Even in reply Ex. PW 1/7 to the notice, the respondent did not deny that the appellant Shri Mahavir Prasad is son of Shri Deep Chand; rather, the respondent in the said reply stated that "other legal heirs" of Shri Deep Chand also are interested persons. The respondent also did not deny in the written statement that Shri Deep Chand had expired. That being so, the appellant was not required to adduce any evidence as regards his relationship with Shri Deep Chand and as regards death of Shri Deep Chand.*

*14. The stand taken by the respondent in his written statement is that Shri Deep Chand was not owner of the tenanted premises and that the tenanted premises are*

owned by a trust on whose behalf Shri Deep Chand was only a rent collector. It is in this background that the pleadings and evidence have to be examined.

15. *In the present case, the document Ex. PW 1/3 is the most crucial piece of evidence, which apparently skipped the attention of the learned Rent Controller. Ex. PW1/3 is a rent note on which the respondent during cross-examination admitted his signatures. The said rent note Ex. PW1/3 specifically stipulates that the respondent had taken the tenanted premises on rent from Shri Deep Chand with effect from 01.05.1977. The said rent note Ex. PW1/3 does not even whisper that the tenanted premises are owned by any trust, as alleged in the written statement. On the contrary, Ex. PW1/3 describes Shri Deep Chand as owner of the tenanted premises, using the expression "uparokt malik" (the abovesaid owner).*

16. *Even in the reply Ex. PW 1/7 to the legal notice, the respondent did not make any whisper that the tenanted premises are owned by any trust. In support of his pleadings that the tenanted premises are owned by a trust, the respondent adduced no evidence at all.*

17. *Therefore, it is clearly proved that appellant's father Shri Deep Chand was owner of the tenanted premises and not merely a rent collector on behalf of any trust and that the respondent was inducted as tenant in the tenanted premises by Shri Deep Chand who has now passed away.*

18. *Then comes the question of Will executed by Shri Deep Chand. Reading the written statement in its entirety, what has been challenged is not the execution of the Will but legality thereof in the sense that according to the respondent, Shri Deep Chand was not owner of the tenanted premises, so was not lawfully empowered to execute Will as regards the tenanted premises. As mentioned above, this challenge must fail on account of respondent's own admission in the rent note Ex. PW1/3 that Shri Deep Chand was owner of the tenanted premises. By way of the said Will Ex.PW1/1, Shri Deep*

*Chand bequeathed the entire premises number 773, Chabiganj, Kashmere Gate, Delhi (of which the tenanted premises are a part) in favour of his son, the appellant.*

*19. Going a step deeper, even if the Will Ex. PW1/1 is, ignored, the fact remains that the appellant is admittedly one of the legal representatives of Shri Deep Chand. On death of Shri Deep Chand, his widow and children became co-owner s of the tenanted premises. The question as to whether the eviction petition brought by the appellant without taking along the remaining legal representatives of Shri Deep Chand would be maintainable is examined as follows.”<sup>1</sup>*

7. Relying upon various judgments of the Supreme Court, the Tribunal has taken a view that even in the absence of the will through which the landlord claimed sole ownership of the suit property, the eviction petition would be maintainable at his instance, as a co-owner.

8. The scope of interference with the view taken by the Tribunal under the Act is extremely limited. The judgment of the Supreme Court in *Koyilerian Janaki and Others vs. Rent Controller (Munsiff), Cannanore and Others*<sup>2</sup>, which was in the context of the Kerala Buildings (Lease and Rent Control) Act, 1965, provides clear guidance on this point. It lays down that, where a special statute governs the relationship between the landlord and tenant and provides for an appeal, the High Court ought not to re-examine findings of fact in its supervisory jurisdiction, unless they are shown to be manifestly unreasonable or perverse. The relevant observations of the Court are as follows:-

*“4. Further we are in agreement with the argument of learned counsel for the appellant that it was not*

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<sup>1</sup> Emphasis supplied.

<sup>2</sup> (2000) 9 SCC 406

*appropriate for the High Court to have interfered with the order passed by the District Judge in exercise of its power under Article 227 of the Constitution. **The proceedings in the present case arose under a special Act governing the landlord and tenant relationship and disputes. The Act does not provide any second appeal or revision to the High Court. The purpose behind for not providing such remedy is to give finality to the order passed under the Act. The power under Article 227 is exercisable where it is found by the High Court that due to a certain grave error an injustice has been caused to a party.** For this reason also, the judgment of the High Court deserves to be set aside.”<sup>3</sup>*

9. Relying upon the judgment in *Koyilerian Janaki* (supra) and three judgments of this Court in *Jasbir Singh vs. Manjit Kaur*<sup>4</sup>, *Nawal Kishore vs. Mohd. Yakub*<sup>5</sup> and *Dev Raj vs. Saroj Singhal (Deceased), through Her Lrs. And Others*<sup>6</sup>, I have very recently taken the same view<sup>7</sup>.

10. Applying these narrow grounds to the present case, I do not find reason to interfere in the present case. The Tribunal has considered the evidence on record to come to a conclusion that Late Shri Deep Chand (father of the respondent herein) was the landlord in respect of the suit property. In reaching this conclusion, the Tribunal has *inter alia* noticed the tenant’s own case that he was inducted into the property by Late Shri Deep Chand. The Tribunal has also referred to the reply given by the tenant to the legal notice, and to a rent note, to conclude

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<sup>3</sup> Emphasis supplied.

<sup>4</sup> 2013 SCC OnLine Del 4647 [CM(M) 1041/2011 decided on 20.11.2013]

<sup>5</sup> 2017 SCC OnLine Del 12778 [CM(M) 1256/2012 decided on 03.10.2017]

<sup>6</sup> 2021 SCC OnLine Del 5492 [CM(M) 1132/2021 decided on 22.12.2021]

<sup>7</sup> *Johrina Begum vs. Sukhbir Singh* [CM(M) 144/2022 decided on 14.02.2022]

that the tenant had failed to establish that suit property is owned by the Trust. As noticed above, the Tribunal is the final arbiter of facts. Mr. Gupta has not been able to point me to any material which would suggest that these findings of fact are perverse, in the sense that no reasonable person could have read the evidence in this manner. That being the high standard required to justify interference under Article 227 of the Constitution, the petitioner's challenge must fail.

11. The view taken by the Tribunal is not challenged on any other ground.

12. In view of the above, there is no merit in the present petition, which stands dismissed.

**FEBUARY 28, 2022/ 'pv'**

**PRATEEK JALAN, J.**