

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **RC.REV. 143/2009 and CM 17979/2009**

Date of decision : 10.12.2009

IN THE MATTER OF :

BHAIYA LAL

..... Petitioner

Through: Mr. S.C. Rana, Advocate

versus

RAMJI DASS DHAMIJA

..... Respondent

Through: Nemo

CORAM

*** HON'BLE MS.JUSTICE HIMA KOHLI**

1. Whether Reporters of Local papers may be allowed to see the Judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

HIMA KOHLI, J. (ORAL)

1. The present petition is filed by the petitioner/tenant, praying *inter alia* for setting aside the order dated 05.09.2009 passed by the Rent Control Tribunal in an appeal preferred by the petitioner against an order dated 13.02.2009 by which, the learned Addl. Rent Controller allowed the eviction petition filed by the respondent/landlord under Section 14(1)(a) of the Delhi Rent Control Act (hereinafter referred to as 'the Act').

2. Briefly stated, the facts of the case are that the respondent/landlord is the owner of the premises bearing No. Y-906, Camp No.1, Nangloi, Delhi. The petitioner is a tenant under the respondent in respect of one room, kitchen and toilet on the first floor and one hall, toilet

and bathroom above the said property. As per the respondent/landlord, the monthly rent of the premises is Rs.2,000/- exclusive of water and electricity charges whereas as per the petitioner/tenant, the rate of rent is Rs.1,000/- per month exclusive of water and electricity charges. The respondent/landlord approached the court of the learned Rent Controller by filing a petition under Section 14(1)(a) of the Act, stating *inter alia* that the petitioner/tenant was a habitual defaulter in making the payment of rent and did not pay rent w.e.f. 01.09.2005 to 31.05.2007, despite legal demand notice dated 10.04.2007 by which, the tenancy of the petitioner was terminated. Hence, an eviction order was sought against the petitioner/tenant.

3. Summons were issued to the petitioner/tenant in the aforesaid petition whereafter, written statement was filed by him. While the petitioner admitted the relationship of landlord and tenant between the parties and receipt of the legal notice dated 10.04.2009, he denied the fact that he was in arrears of rent. He claimed that he had paid the rent upto 30.11.2006, but the respondent/landlord did not accept the rent thereafter, which was sent through money order. After completion of pleadings, an interim order dated 03.12.2007 was passed whereunder, the petitioner was directed to deposit or pay to the respondent/landlord upto date rent @ Rs.1,000/- per month w.e.f. 01.12.2006, within a period of one month, and continue to pay future rent by the 15th day of each succeeding month, under the provisions of Section 15(1) of the Act. As the petitioner failed to comply with the aforesaid order, his defence was struck off vide order dated 22.05.2008 and the respondent/landlord was called upon to lead his evidence. After hearing

the parties, the learned Addl. Rent Controller held that the respondent/landlord had been able to prove all the ingredients of Section 14(1)(a) of the Act. As a result, the petition was decided in his favour and against the petitioner herein, vide order dated 13.02.2009.

4. Aggrieved by the aforesaid order dated 13.02.2009, the petitioner approached the Rent Control Tribunal by preferring an appeal. The said appeal was filed belatedly. Despite holding that the petitioner had not been able to show sufficient cause to condone the delay in preferring the appeal, merits of the matter were examined by the Tribunal, which took notice of the fact that the petitioner was a regular defaulter and committed persistent defaults in paying the rent to the respondent/landlord. The delay in making the payment of rent by the petitioner was elaborated by the Tribunal in para 12 of the impugned judgment, a perusal of which shows that the petitioner committed frequent defaults extending even beyond 100 days on various occasions in paying the rent. Looking at the conduct of the petitioner, the learned Rent Control Tribunal did not see any reason to interfere with the findings of the learned Addl. Rent Controller. As a result, the order dated 13.02.2009 was upheld and the appeal of the petitioner was dismissed.

5. Aggrieved by the said dismissal order dated 05.09.2009, the petitioner has preferred the present petition, praying *inter alia* for setting aside the order of the Addl. Rent Controller dated 13.02.2009 and of the Rent Control Tribunal dated 05.09.2009. Counsel for the petitioner submits that in fact there was hardly any default on the part of the petitioner and that even if there was any default in paying the rent, the same was of very

few days, which fact was overlooked by the court below. The conduct of the petitioner was duly examined by the Addl. Rent Controller as also the Rent Control Tribunal. Para 12 of the impugned order dated 05.09.2009 is relevant for consideration and is reproduced hereinebelow:-

"12. After carefully going through the trial court record and considering the rival contentions of the parties, I find that Appeal is bound to fail for the reason that order U/s 15(1) of the Delhi Rent Control Act was passed on the basis of facts admitted by the present Appellant i.e. rate of rent being Rs.1,000/- per month and the same being due from 1.12.2006. In view of this admission on the part of the tenant, Ld. Trial court passed the order U/s 15 (1) of Delhi Rent Control Act. A perusal of the impugned order shows that the present Appellant committed default in complying with the said order. The impugned order shows that it is not a case of single default but repeatedly the rent was deposited after inordinate delay i.e. rent for the period w.e.f. 01.12.2006 to 30.1.2007 was deposited after a delay of 74 days on 27.03.2008, rent for the month of April, 2008 after the delay of 138 days, for the month of May, 2008 after the delay of 107 days, for the month of June, 2008 after the delay of 77 days, for the month of July, 2008 after the delay of 3 days, for the month of August, 2008 after the delay of 15 days, for the month of September, 2008 after the delay of 41 days, for the month of October, 2008 after the delay of 10 days, for the month of November, 2008 after the delay of 57 days and for the month of December, 2008 after the delay of 2 days."

6. From the above, it clearly emerges that the petitioner has been a persistent defaulter in depositing/paying the rent to the respondent/landlord. Despite order dated 03.12.2007, he did not adhere to the time schedule fixed by the court below for depositing the rent.

7. In the light of the aforesaid conduct of the petitioner and in view of the fact that there is no other ground urged by the counsel for the petitioner to persuade this Court to exercise its powers of supervisory

jurisdiction in the present proceedings, this Court is not inclined to interfere with the impugned orders dated 05.09.2009 and 13.02.2009. The impugned orders are therefore affirmed. The present petition is dismissed alongwith the pending application, with no orders as to costs.

DECEMBER 10, 2009
rkb

(HIMA KOHLI)
JUDGE