

UNION OF INDIA & ORS.

.....Appellants

Through: Mr.Rajinder Nischal, Advocate.
Mr.G.R.Bharda, Sr.Supdt.,
Delhi East, Delhi.

Versus

ROSHAN LAL MAKKAR

.....Respondent

Through: Mr.Mukul Dhawan, Advocate.

CORAM:**HON'BLE MS. JUSTICE INDERMEET KAUR**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J.(Oral)

1. This second appeal has impugned the judgment and decree dated 12.03.2010 which has endorsed the finding of the trial judge dated 23.1.2010 wherein on an application under Order 12 Rule 6 of the Code of Civil Procedure (hereinafter referred to as 'the Code') the suit of the plaintiff seeking possession of the suit premises bearing property no.X/978, Ground Floor, Chand Mohalla, Gandhi Nagar, Delhi had been decreed in his favour.

2. It is not in dispute that the plaintiff is the owner of the disputed premises. He had vide a registered leased deed dated 08.04.2004 given the premises on rent for a period of five years to the appellant which lease had expired on 7.4.2009 by efflux of time. Legal notice dated 16.4.2008 had been issued to the defendant terminating his tenancy with effect from 8.4.2009

determining the tenancy of the appellant/defendant with the date of expiry of the lease i.e. with effect from 7.4.2009. Present suit was filed on 24.4.2009. The admitted rate of rent was Rs.16000/-. These admissions were categorically made by the defendant in his written statement. Decree under Order 12 Rule 6 of the Code had followed. The judgment of the trial judge was endorsed by the first appellate court.

3. On the last date, matter had been adjourned in order that the parties could amicably settle their dispute. It is pointed out by learned counsel for the respondent that after the suit had been filed, on 11.5.2010 a communication had been addressed to the plaintiff wherein the appellant had agreed to pay enhanced rent at the rate of Rs.51000-55000/- per month which was accepted by the appellant vide his communication dated 21.5.2010. Matter had thereafter been adjourned in order that the contents of this communication could fructify. However, today on the instructions from the department, learned counsel for the appellant states that the department is not willing to pay more than Rs.38, 837/- per month plus the municipal taxes. This proposal is not acceptable to the respondent/plaintiff.

4. Arguments had been heard on merits.

5. Learned counsel for the appellant has urged that a substantial question of law has arisen as the lease agreement contained an arbitration clause and without resorting to the arbitration proceedings, appellant could not straightway file this second appeal. Arguments have been negated. Learned counsel for the respondent has placed reliance upon ILR (2009) II Delhi *M/s National Textile Corporation Ltd. & Anr. vs. Sh.Ashval*

Vadheraa wherein the bench of this court had held that where the written lease deed had come to an end by efflux of time, the arbitration clause also perished along with termination of the lease deed. Admittedly, this lease deed had expired on 7.4.2009, arbitration clause also stood perished. No other argument has been urged.

6. No question of law much less any substantial question of law has arisen. Appeal is dismissed in limine.

C.M.9923/2010 (for stay)

In view of the judgment passed in appeal, interim order passed on 24.5.2010 stands vacated.

Application is disposed of.

INDERMEET KAUR, J.

DECEMBER 02, 2010

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