

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RFA No.233/2001**

% 14th February, 2011

O.N.G.C. Appellant

Through: None

VERSUS

L.K.PURI Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

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

VALMIKI J. MEHTA, J (ORAL)

1. This case is on the Regular Board of this Court since 3.1.2011. Today it is effective item no. 3 on the Regular Board. No one appears for the parties. I have therefore perused the record and am proceeding to dispose of the case.

2. The challenge by means of this Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 is to the impugned judgment and decree dated 21.4.2001 whereby the suit of the respondent for possession, arrears of rent and damages was decreed.

3. The facts are that the appellant took on lease the subject premises bearing no.501, Sector-A, Pocket-C, Vasant Kunj, New Delhi from

the respondent vide lease deed dated 3.9.1993. The rate of rent originally was Rs.3,000/- per month and which subsequently was enhanced to Rs.3,300/- per month w.e.f. May, 1995. The rent was further increased to Rs.4,000/- per month and which was agreed upon by the appellant/defendant vide letter dated 1.5.97. Rent at the rate of Rs.4,000/- per month was paid till April, 1999 whereafter nothing was paid to the respondent/plaintiff. The premises which was taken on lease by the appellant was for the residence of its employee Smt. Preeta Pant Puri, who happened to be daughter-in-law of the plaintiff. There were certain disputes between the respondent and his daughter-in-law. The respondent/plaintiff therefore terminated the tenancy and filed the subject suit for recovery of possession, arrears of rent and mesne profits, which has been decreed by the impugned judgment and decree.

4. The only defence of the appellant before the Trial Court qua the relationship of landlord and tenant was that the appellant executed the lease and made payment of rent to the respondent for all the years from 1993 to 1999 because its employee Smt..Preeta Pant Puri wanted to take benefit of the rental allowance as the rent would be payable to her father-in-law.

5. In view of the admitted facts which have come on record it cannot be disputed that there was a relationship of landlord and tenant between the parties for many years i.e. from 1993 to 1999. It is also not disputed that the last rate of rent paid was Rs.4,000/- per month. It is also not disputed that the tenancy of the appellant was terminated vide legal

notice dated 8.11.1999. The suit of the respondent/plaintiff was therefore rightly decreed and it cannot be said that there was no relationship of landlord and tenant between the parties. The relevant observations of the Trial Court are found in Paras 17 to 19 of the impugned judgment and which read as under :

“17. In view of these facts stated in the WS, the defendant had not specifically denied the landlord/tenant relationship between the plaintiff and the defendant; the rate of rent, execution of the lease deed, extension of the lease and enhancement of the rent and last rent payable at Rs.4,000/- per month, expiry of the lease deed as per the terms and conditions in agreement, service of the legal notice dated 8.11.1999 for determination of the tenancy in respect of the suit premises claiming the arrears of rent and damages for the period mentioned therein and the claim @ Rs.10,000/- per month if the premises is not handed over to the plaintiff. At the same time it is admitted fact that the possession of the suit premises has not been handed over to the plaintiff and the rent claimed was not paid as no payment has been pleaded for the period claimed by the plaintiff upto November, 1999 and that the claim of the damages has also not been specifically denied. Accordingly, I find that the defendant bitterly failed to make the specific denials in the WS on the aforesaid facts. So I find that by reason of the provision contained u/O 8 Rule 5 CPC, the defendant had made the admissions on all these facts. Accordingly, I find that the plaintiff has established that the defendant had made the admissions on all the material facts alleged by the plaintiff in the suit for the purpose of possession as well as for the purpose of non – payment of rent @ Rs.4,000/- per month w.e.f. May, 1999 to November, 1999 and the damages @ Rs.10,000/- per month thereafter in respect of the suit premises. Since the defendant had made the admissions on the factum of landlord/tenant relationship between the parties in respect of the suit premises, last paid rent @ Rs.4,000/- per month, inception of the tenancy, extension of the lease from time to time, termination thereof in accordance with the agreement, determination of tenancy even by notice dated 8.11.99, execution of lease deed between the parties in respect of the suit premises containing the terms and conditions of the lease. I find

that the plaintiff is entitled to the order or judgment on the basis of such admissions u/O 12 Rule 6 CPC. Therefore, on the basis of such admissions the Court has no option but to pass order or judgment in favour of the plaintiff and against the defendant for the relief claimed in the suit having regard to such admissions.

18. During the course of argument it has been contended that the daughter-in-law of the plaintiff was in occupation and therefore, the defendant was not liable to handover the possession and pay the rent. This contention does not have any merit or substance since the lease deed has been executed between the parties i.e. between the plaintiff and the defendant and not between plaintiff and his daughter-in-law and accordingly, the landlord/tenant relationship are between the plaintiff and the defendant and not between the plaintiff and his daughter-in-law. Merely because the daughter-in-law of the plaintiff happened to be an officer of the defendant, was in occupation of the said premises in accordance with the lease deed executed between the parties, the defendant cannot avoid its liabilities and in view of the law in case Sardar Sadhu Singh and others vs. Narinder Kaur 60(1995) DLT 638 nature of permissive user as a daughter-in-law after marriage would not make it a case of lawful or settled possession. Accordingly, Smt.Preeta Pant Puri was living in that premises not as daughter-in-law but as an officer of the defendant for which the defendant has executed the lease deed and had executed the same without raising any dispute in that regard and had admitted the determination of the tenancy by writing its letter to the plaintiff. Therefore, I find no merit or substance in this contention.

19. No further substantial contention has been raised and therefore, keeping in view my above detailed discussion, I find substantial merit in the application u/O 12 Rule 6 CPC and Order 39 Rule 10 CPC filed by the plaintiff for passing the order and judgment respectively for the possession of the suit premises as well as the recovery of the arrears of rent and damages. That being so the suit of the plaintiff has to be decreed for the recovery of the possession of the suit property and recovery of Rs.28,000/- for the period May, 1999 to November, 1999 as the arrears of rent and damages @ Rs.10,000/- per month w.e.f. December, 1999 till the filing of the suit and future damages at the same rate subject to payment of Court fees accordingly. So, the suit of the plaintiff is decreed for the possession of property No.501, Sector-A, Pocket-C,

Vasant Kunj, New Delhi, specifically shown red in the site plan, arrears of rent for the amount of Rs.28,000/-, Rs.40,000/- for the damages w.e.f. December, 1999 till the filing of the suit, future damages @ Rs.10,000/- per month subject to payment of Court fee with costs and interest @ 12% p.a. w.e.f. filing of the suit till the recovery of the amount due on account of arrears of rent as well as of damages. Decree sheet be drawn in terms of the order. File be consigned to Record Room."

6. I wholly agree with the aforesaid findings and conclusions of the Trial Court. There is no illegality or perversity in the impugned judgment and decree which calls for an interference by this Court. I note that there was no stay granted qua the decree of possession, and therefore, the possession would have been most probably taken by the respondent. So far as the money decree is concerned, the appellant had deposited 50% of the decretal amount in this Court, and this amount will be available to the respondent and can be released towards part satisfaction of the money decree. Appeal is therefore dismissed, leaving the parties to bear their own costs. Interim orders are vacated. Trial Court Record be sent back.

CM Nos.767/01, 1204/01 & 1519/01

No orders are required to be passed in above three CMs as the main appeal has been disposed of. Therefore, these CMs are disposed of having become infructuous.

February 14, 2011
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VALMIKI J. MEHTA, J.