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

+ **Date of Decision: 08.12.2015**

% **RSA 420/2015 and C.M. Nos.29899-29900/2015**

ADARSH KUMAR PUNIYANI Appellant

Through: Mr. Jairaj S. Mudgal, Advocate.

versus

LAJWANTI PIPLANI Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

VIPIN SANGHI, J. (OPEN COURT)

1. The present second appeal is directed against the judgment and decree passed by the First Appellate Court, namely, ADJ-04 (NW), Rohini Courts, Delhi in RCA No.29/2015, whereby the first appeal preferred by the appellant/defendant has been dismissed, and the judgment and decree dated 27.03.2015 passed in Suit No.340/2014 under Order 12 Rule 6 CPC qua the relief of possession/ejectment has been affirmed.

2. The respondent filed the suit for, *inter alia*, claiming the relief of ejectment of the appellant/defendant on the premise that the plaintiff is a senior citizen and absolute owner of the property, i.e. upper ground floor, second and third floor of property no.B-80 (old plot no.74), Rishi Nagar, Rani Bagh, Shakur Basti, New Delhi. The plaintiff stated that she built up

the entire building containing stilt parking and the three floors in collaboration with a builder in the year 2011. The plaintiff sold the ownership of the third floor in 2011 itself. She stated that in December 2011, the defendant approached her to take the second floor of the suit property on rent. The second floor of the suit property was accordingly leased out by the plaintiff to the defendant vide lease agreement dated 03.12.2011 for a period of 11 months on a monthly rent of Rs.12,000/- excluding water and electricity charges. The defendant deposited a refundable security amount of Rs.30,000/-.

3. The tenancy of the appellant/defendant commenced from 01.12.2011. She stated that in terms of the agreement, the rent was liable to be increased by 10% over and above the existing rent on the expiry of 11 months. Consequently, from 01.11.2012, the rent was increased to Rs.13,200/-. She stated that the defendant paid the agreed rent of Rs.13,200/- till January 2014 and thereafter he started making excuses for not making payment of rent due to his poor financial condition. On the assurance of the defendant that he would make payment of the outstanding rent within the next two months, the plaintiff did not initiate action against him. On 29.04.2014 when the plaintiff demanded the outstanding rent, the defendant and his wife quarrelled with the plaintiff and her daughter in law. The plaintiff called the police by dialing no.100. The defendant still did not make payment of the outstanding amount.

4. The defendant filed a civil suit for permanent injunction, of which summons were received by the plaintiff in the last week of August 2014. In the said suit, the defendant falsely claimed that he had been inducted as a

tenant in the year 2010, and that he had made payment of Rs.5 lacs as security amount. He claimed that the parties had agreed to reduction of rent to Rs.2,000/- p.m., since the said security amount of Rs.5 lacs had been advanced by the defendant to the plaintiff. The plaintiff stated that she had never reduced the rent to Rs.2,000/-, and had not received the so-called security deposit of Rs.5 lacs at any point of time from the defendant. The defendant on his own deposited Rs.2,000/- p.m. in the bank account of the plaintiff in the month of June, July, August and October 2013, of which the plaintiff got knowledge after receiving summons in the said suit filed by the plaintiff. Being a senior citizen of about 85 years old, the plaintiff was not aware of the transactions being undertaken in her bank account by deposit of the said amount. She had not even operated her bank account during this period.

5. The plaintiff stated that upon enquiry it transpired that the deposit of Rs.2,000/- was being made in the name of one Sanjay Kumar. The plaintiff stated that she terminated the tenancy of the defendant vide legal notice dated 12.09.2014 and thus the relationship of landlord and tenant had ceased to exist. In the said notice, she also demanded the rent for the period of seven months, as aforesaid. Consequently, the plaintiff filed a suit claiming an amount of Rs.92,400/- @ Rs.13,200/- from February 2014 till August 2014 (seven months).

6. The suit filed by the defendant was withdrawn upon a statement made by the plaintiff that she shall not dispossess the defendant from the suit property without due process of law.

7. The plaintiff sought a decree for possession/ejectment of the second floor of the suit property apart from decree for Rs.1,18,800/- with pendente lite and future interest. She also prayed for a decree for mesne profits @ Rs.13,200/- till the time the possession of the property is handed over by the defendant to the plaintiff.

8. Upon being summoned, the defendant filed his written statement. The defendant did not deny the relationship of landlord and tenant between the parties. He claimed that the suit was barred under Section 50 of the Delhi Rent Control Act (DRC Act) on the premise that the rent of the suit property was Rs.2,000/- p.m. He also claimed that the rent initially under the rent agreement dated 03.12.2011 was Rs.12,000/- p.m. excluding water and electricity charges. However, he stated that the same had been reduced to Rs.2,000/- p.m. when he advanced a security amount of Rs.5 lacs to the plaintiff. He denied having paid the rent of Rs.13,200/- p.m. till January 2014.

9. The plaintiff moved an application under Order 12 Rule 6 CPC to seek the passing of a partial decree for ejectment/possession on the basis of the admission made by the defendant in the written statement. The Trial Court allowed the said application vide order dated 27.03.2015 by holding that the relationship of landlord and tenant was admitted between the parties and the tenancy of the defendant stood terminated, in any event, with the filing of the suit. In this regard, reliance was placed on the judgment in ***Jeevan Diesels & Electricals Ltd. v. Jasbeer Singh Chhada (HUF) & Ors.***, (2011) 183 DLT 712. The Trial Court also observed that the defendant had not disputed the fact that the tenanted premises was newly constructed –

being less than ten years old, and thus the DRC Act was not applicable. The plea of the defendant that the rent was reduced to Rs.2,000/- p.m. from November 2013 onwards upon the alleged deposit of Rs.5 lacs as security amount was rejected by placing reliance on Section 91 and 92 of the Evidence Act. The Trial Court held that the disputed facts raised by the defendant with regard to advancement of security deposit of Rs.5 lacs and the alleged reduction in the rent from Rs.12,000/- to Rs.2,000/- p.m. did not require a trial to be conducted qua the relief of ejectment/possession, as no evidence of oral agreement or statement could be admitted, contradicting or varying the terms of a written agreement in terms of Section 92 of the Evidence Act, except in the exceptional circumstances noted under Section 92 of the Act.

10. The first appeal preferred by the appellant met the same fate and, consequently, the present appeal has been preferred.

11. The submission of learned counsel for the appellant is that the agreement set up by the defendant/appellant with regard to advancement of security deposit of Rs.5 lacs and the reduction of rent from Rs.12,000/- to Rs.2,000/- is covered by proviso (4) to Section 92 of the Evidence Act. Thus, it could not be said that the subsequent oral agreement set up by the defendant could not even have been set up and, therefore, it did not require the conduct of a trial. He submits that since the rent had been agreed to be reduced to below Rs.3,500/- p.m., the protection under the DRC Act was available to the appellant and the suit was barred by Section 50 thereof. Learned counsel submits that no partial decree for ejectment/possession could have been passed by invoking Order 12 Rule 6 CPC in the facts of the

case.

12. Having heard learned counsel and perused the judgment of the two courts below as also the pleadings of the parties, I am of the view that there is absolutely no merit in the present appeal. The same clearly appears to be an abuse of process of the court by the appellant/defendant. The plaintiff had stated in para 1 and 2 of the plaint as follows:

“1. That plaintiff is a senior citizen aged about 85 years, and the absolute owner landlord of the property bearing upper ground, second floor and third floor of property No.B-80 (Old plot no.74), Rishi Nagar, Rani Bagh, Shakur Basti, New Delhi-110034. Plaintiff built up this entire building containing stilt parking, upper ground, first, second and third floors in collaboration with a builder in the year 2011. Plaintiff sold the ownership of third floor in 2011.

2. That in December 2011, the defendant approached the plaintiff with a request to take second floor of property No.B-80 (Old plot No.74), Rishi Nagar, Rani Bagh, Shakur Basti, New Delhi-110034, on rent therein (hereinafter referred to as suit premises). The suit premises are shown red in the site plan attached”.

13. In his written statement, the denial by the defendant of the averment that the suit property had been constructed by the plaintiff in collaboration with a builder in the year 2011 was premised on “want of knowledge”. Paras 1 and 2 of the reply on merits as found in the written statement of the defendant read as follows:

“1. That the contents of para no.1 of the plaint are wrong, false and hence denied. It is denied for want of knowledge that the plaintiff is absolute owner of the property bearing upper ground, second floor and third floor of property No.B-80 (Old plot No.74), Rishi Nagar, Rani Bagh, Shakur Basti, New Delhi-110034. Plaintiff built up this entire building containing stilt parking, upper ground floor, first second and third floor in collaboration with the builder in the year 2011, the plaintiff sold the ownership of first floor in July 2011.

2. That the contents of para No.2 of the plaint are wrong, false and hence denied. It is specifically denied that in December 2011 the defendant approached the plaintiff with a request to take second floor of property No.B-80 (Old plot No.74), Rishi Nagar, Rani Bagh, Shakur Basti, New Delhi on rent. It is submitted that the same was taken on rent through one Mr. Gaurav Ahuja”.

14. It is well settled that the denial “for want of knowledge” of an averment made by the plaintiff in his plaint is of no avail, and cannot even be construed as a denial. It tantamounts to an admission of the averment made by the plaintiff in the corresponding paragraphs of the plaint. Pertinently, the defendant did not claim that the property in question was constructed at an earlier point of time - such that it was over ten years old, when the same had been let out on 03.12.2011 to the defendant. Thus, it stood established and no trial was called for to establish that the premises in question was constructed on or after the commencement of the Delhi Rent Control (Amendment) Act, 1988, and that it was let out within a period of ten years from the date of completion of such construction. Consequently,

by force of Section 3(d) of the DRC Act, the said Act had no application to the premises in question. This being the position, the protection afforded under Section 50 of the DRC Act to the tenant, in any event, was not available, even if it were to be assumed for the sake of argument that the rent was Rs.2,000/- p.m., and not Rs.12,000/- or Rs.13,200/- p.m. as claimed by the plaintiff. On this short ground, the present appeal is liable to be dismissed.

15. The issue that arises for consideration is whether the defence of the appellant/ defendant with regard to reduction of the rent from Rs.12,000/- to Rs.2,000/- on account of the alleged advancement of Rs.5 Lacs as security to the respondent/ plaintiff was a material plea, which required framing of an issue, and conduct of trial for its determination in the facts of the present case. In my view, the answer is clearly in the negative. This plea of the appellant/ defendant is nothing more than an instance of clever drafting by an astute lawyer to somehow drag the suit, and to deny relief to the plaintiff/ landlady, who is an 85 years old senior citizen. The plea of the appellant/ defendant can only be described as fantastic. It is most frivolous and baseless. It is even opposed to sheer commonsense, and normal course of human conduct. The appellant/ defendant wants the Court to believe that even though the parties initially entered into a written rent agreement dated 03.12.2011, after the expiry of the initial period of eleven months, when such a drastic and material change in terms was allegedly made, the parties did not consider it necessary to record the terms of the so-called new agreement as set up by the appellant/ defendant. The appellant/ defendant wants the Court to believe that he advanced a sum of Rs.5 Lacs to the

respondent/ plaintiff in cash without reducing the same into writing and without obtaining any receipt of the said amount from the respondent/ plaintiff. The appellant/ defendant also wants the Court to believe that the respondent/ plaintiff agreed to drastically reduce the rent from Rs.12,000/- to Rs.2,000/- per month, i.e. a reduction of Rs.10,000/- per month merely because the appellant/ defendant claims to have advanced a sum of Rs.5 Lacs as “security” (which is refundable by its very nature) to the respondent/ plaintiff. The reduction of Rs.10,000/- per month translates to Rs.1,20,000/- per year, which, in turn, would translate to interest @ 24% per annum on the amount of Rs.5 Lacs. Apparently, the said plea was set up with the planning that the suit property could be claimed to come within the purview of the DRC Act. Unfortunately for the appellant/ defendant, what he overlooked is the fact that the suit property, in any event, is beyond the purview of the DRC Act on account of its being a new property – a fact which he has not materially denied in his written statement and, therefore, the same stands admitted. Was the Court obliged to even frame an issue on the said plea of the appellant/ defendant? In my view, certainly not. The Courts, repeatedly, have had to deal with such dishonest and frivolous pleas set up by parties with a view to prolong the litigation and to deny relief to the opposite party, and repeatedly the Courts have seen through such dishonest ways of the party adopting such tactics and device such stratagem.

16. In *Zulfiqar Ali Khan & Others Vs. Straw Products Limited & Others*, 2000 (56) DRJ (Suppl) 590 – which was also a suit seeking ejectment of the tenant by invoking Order XII Rule 6 CPC, the defendant/ tenant claimed that the standard rent of the suit premises was less than

Rs.3,500/- per month even though the last paid monthly rent was Rs.6,600/-.

While dealing with the defence of the defendant, the Court observed as follows:

“This is a notorious fact that to drag the case, a person so interested often takes all sorts of false or legally untenable pleas. Legal process should not be allowed to be misused by such persons. Only such defense as give rise to clear and bona fide dispute or triable issues should be put to trial and not illusory or unnecessary or mala fide based on false or untenable pleas to delay the suit. The issues will be framed in a suit only when pleadings raise material proposition of law and/or fact which need investigation and so could be decided after trial giving parties opportunities to adduce such relevant evidence as they may think necessary and proper. Material proposition of law or fact would mean such issues which are relevant and necessarily arise for deciding the controversy involved. If a plea is not valid and tenable in law or is not relevant or necessary for deciding the controversy involved, the Court would not be bound and justified in framing issue on such unnecessary or baseless pleas, thereby causing unnecessary and avoidable inconvenience to the parties and waste of valuable court time.”

17. In **Ashoka Estate Pvt. Ltd & Others Vs. Dewan Chand Builders Pvt. Ltd.**, 159 (2009) DLT 233, this Court held that if the plaintiff is otherwise found entitled to seek decree on admissions, he could not be deprived thereof by astute drafting of written statement and/ or by taking pleas therein having no legs to stand upon. This Court observed:

“26. This court is to read the pleadings of the parties meaningfully. Issues are to be framed on material and not all propositions of law and fact. A plea, which on the face of it is found by the court to be untenable, does not require the framing of any issue. The pleas of the defendants in the present case are

found by me to be such, without calling for any trial whatsoever. If the said pleas of the defendants on the basis whereof the admitted liability of the defendants is sought to be defeated, are found to be untenable, naturally the impediment to the passing off a decree on the basis of admissions disappear. The apex court in T. Arvindam Vs. T.V. Satyapal AIR 1977 SC 2421 has held that if on a meaningful-not formal-reading, claim is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, the trial court should ensure that bogus litigation is shot down at the earliest stage. Again, in Liverpool & London S.P. & I Association Ltd. Vs. M.V. Sea Success I & Another (2004) 9 SCC 512 it was held that when no cause of action is disclosed, the courts will not unnecessarily protract the hearing of suit; the court should interpret the provisions in such a manner so as to save expenses, achieve expedition and avoid the courts resources being used up in cases which will serve no useful purpose. It was further held that a litigation which in the opinion of the court is doomed to fail should not further be allowed to be used as a device to harass. The said propositions equally apply to written statements/defence to the claim also.”

18. Once again, in **Kawal Sachdeva Vs. Madhu Bala Rana & Others**, MANU/DE/1050/2013, defendants No.3 to 8 had taken the plea that the premises in question had been let out to them by defendant No.2 on behalf of defendant No.1 and that defendant No.1 had joined in letting out the property to them by defendant No.2. There was no document or other material placed before the Court by defendants No.3 to 8 in support of this plea, even though the plea of collusion between defendants No.1 & 2 had been raised in their written statement. Since the said plea was raised in their written statement by defendants No.3 to 8, they sought framing of an issue on the said aspect. This Court, however, declined to frame an issue. The Court referred to its earlier order dated 06.03.2013. The said order was

paraphrased in paragraph 14 of the aforesaid decision. The gist of the order dated 06.03.2013, as culled out from paragraph 14 of the aforesaid decision, was that time had arrived when Courts should examine as to what is the meaning ascribed to the word “material” used in Order IV Rule 1 CPC; whether an issue is required to be framed on the clever drafting of advocates or on the facts as emerging on record; that it cannot be lost sight of, that an issue once framed, requires evidence to be led thereon, which means delay in disposal of the suit; false pleas and pleadings had become rampant in the face of changing societal status. The Court also observed:

“... .. that unless the Courts peruse the pleadings together with the material on record to determine whether the plea taken can be said to be a material one or not so as to invite framing of an issue thereon, the litigants, interested in protracted trial, would by clever drafting of pleadings and taking of pleas which otherwise have no legs to stand, would have a large number of issues framed, entitling them to examine a number of witnesses, thereby making a mockery of the judicial process.”

19. The Court then referred to the earlier decisions rendered by the Supreme Court, this Court and other High Courts to the point. This discussion is instructive and the same reads as follows:

“16. Reference may at the outset be made to D.M. Deshpande Vs. Janardhan Kashinath Kadam (1998) 8 SCC 315 where in the absence of particulars viz. date, mode and terms of creation of tenancy in the pleadings, it was held that an issue on a bare claim of tenancy ought not to have been framed.

17. This Court in Lakshmikant Shreekant (HUF) Vs. M.N. Dastur & Company Pvt. Ltd. 1998 (44) DRJ 502 held that the Court is required to frame issues of fact or of law that necessarily and properly arise for determining the real

controversy involved on the pleadings of the parties and that such issues arise when a material proposition of fact or law is affirmed by one party and denied by the other and the Court would not frame an issue which does not arise on the pleadings nor a issue need be framed on a point of law which is perfectly clear. It was further held that the Court is required to apply its mind and understand the facts before framing the issue. It was yet further held that if the plea is mala fide or preposterous or vexatious and can be disposed of without going into the facts or is contrary to law or the settled legal position, the Court will not be justified in adopting a hands off policy and allow the game of the defendant to have its sway.

18. Similarly in Zulfiqar Ali Khan Vs. Straw Products Limited 87 (2000) DLT 76 it was observed that it is a notorious fact that to drag the case, a litigant often takes all sorts of false or legally untenable pleas and it was held that legal process should not be allowed to be misused by such persons and only such defence as give rise to clear and bona fide dispute or triable issues should be put to trial and not illusory or unnecessary or mala fide based on false or untenable pleas to delay the suit. It was yet further held that the Court is not bound to frame an issue on unnecessary or baseless pleas, thereby causing unnecessary and avoidable inconvenience to the parties and waste of valuable Court time.

19. The High of Bombay also in Mohammad Hayatkhan Karimkhan Vs. Taramati MANU/MH/1494/2010 held that in order to frame an issue it is necessary to consider whether the plea raised is bona fide or merely raised to delay decision in the matter and which entitles the litigant so raising the plea to remain in possession of the property until adjudication of the issue. It was further held that it is also necessary to see whether there is sufficient material placed on record to frame an issue and to make a reference. The learned Judge observed that it is well settled that no frivolous plea need be a matter of reference and the Court before framing an issue is entitled to see whether such plea is bona fide and has any basis in the material placed on record. Reliance was placed on the judgment of the Division

Bench of that Court in Pulmati Shyamlal Mishra Vs. Ramkrishna Gangaprasad Bajpai 1981 Maharashtra Law Journal 321 laying down that it is not correct to assume that the Court is under any obligation to frame and remit the issue of tenancy mechanically, merely on the same being raised in the written statement without judicial satisfaction of its necessity and justification; that remittance of any such tenancy issue and the trial thereof is known to have become a long winding and time consuming process ensuring the delay for the benefit of the person in possession of the land and which prompts and tempts such persons to take such pleas to perpetuate his unmerited possession. The Bombay High Court further held that the Court has a duty to examine the substance and refuse to frame and remit any issue if the same appears to be demonstrably frivolous and mala fide. Reliance in this regard was placed on the law laid down by the Apex court on Thomas Antony Vs. Varkey Varkey (2000) 1 SCC 35 though in the context of reference to a Tribunal but holding that the law making reference to the Tribunal mandatory cannot be said to have intended that even a patently frivolous, mala fide and illegal plea taken by a party merely to delay the proceeding and to remain in possession is to be referred to the Tribunal and the statutory provisions have to be read as envisaging a reference only where a bona fide and legally sustainable plea is taken.

20. *The Bombay High Court in Sociedade Patriotica Dos Baldios Das Novas Conquistas Vs. Sudhakar Sagun Bhandari MANU/MH/0819/2008 also held that under order 14 of the CPC an issue can only arise when a material proposition of fact or law is affirmed by one party and denied by the other and when a vague plea is taken, the Court should hesitate to frame an issue on such a vague plea, unless the party is able to give particulars in support of the plea. To the same effect is the judgment of yet another Bench of the Bombay High Court in Uttam Sambha Deshmukh Vs. Yamunabai MANU/MH/0387/1998 where a bald plea unsubstantiated by any documentary evidence was held to be not sufficient for the purpose of framing an issue.”*

20. Reference was also made to the order dated 12.03.2013 in CS(OS) No.505/2010 titled **Kavita Chaudhri Vs. Evenet Singh**; order dated 03.04.2013 in CS(OS) No.791/2011 titled **Satish Handa Vs. Ashok Diwan** and order dated 07.11.2012 in CS(OS) No.2695.2011 titled **Satya Gupta Vs. Guneet Singh**, wherein this Court had, *inter alia*, observed:

“(ii) that issues are not to be framed on whatsoever pleas are contained in the pleadings but on material pleadings of fact and law and a plea which has no basis in law to stand on and / or a plea qua which law is well settled cannot be said to be a material plea inviting framing of an issue thereon; and

(iii) it cannot be lost sight of that framing of an unnecessary issue invites unnecessary evidence and arguments and which protracts disposal of the suits.”

21. The Court also referred to a Division Bench judgment of this Court in **Vijaya Myne Vs. Satya Bhushan Kaura**, 142 (2007) DLT 483 (DB), wherein the Division Bench has observed that admissions can even be constructive, which can be inferred from vague and evasive pleadings and that admissions can even be inferred from the facts and circumstances of the case. If it were to be held that on every plea, howsoever vague and unsubstantiated, an issue needs to be struck, there can be no effective application of Order XII Rule 6 CPC.

22. I may lastly refer to the decision of this Court in **Abbot India Limited Vs. Rajinder Mohindra & Another**, 208 (2014) DLT 201. In this case, upon being faced with a suit for ejectment after determination of tenancy, the defendant/ tenant in his written statement, *inter alia*, took the plea that the parties had entered into an agreement to sell, whereunder the defendant

had advanced a sum of Rs.3 Lacs to the plaintiff, which was unilaterally and illegally terminated by the plaintiff and the amount returned. The defendant/appellant claimed that he was entitled to specific performance of agreement to sell and that the ejectment suit was a counter-blast to the suit for specific performance filed by him. He, *inter alia*, set up a plea of being in part-performance of the suit property and invoked Section 53-A of the Transfer of Property Act to protect his possession. The Trial Court decreed the suit of the landlord. In the first appeal before this Court, the Court observed as follows:

“31. The procedure prescribed in the Code of Civil Procedure, 1908 for disposal of suits provides for issues to be framed only on material propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence. Else, Order 15 provides that where the parties are not found at issue on any question of law or fact, the Court should at once pronounce judgment. Once it is found that there is no defence as alleged of Section 53A of the Transfer of Property Act, merely because a bogey thereof is raised at the stage of framing of the issues or upon the respondents / plaintiffs filing an application for decree on admissions, would not call for framing of an issue. It has been held in T. Arivandandam Vs. T.V. Satyapal AIR 1977 SC 2421, Liverpool & London S.P. & I Association Vs. M.V. Sea Success I (2004) 9 SCC 512 and ITC Ltd. Vs. Debts Recovery Appellate Tribunal (1998) 2 SCC 70 that the pleadings have to be read meaningfully and if on such a reading, it is found that there is no lis to be tried and the claim or defence is ultimately one destined to doom, the Courts should not waste their time on trial of such cases, to the prejudice of deserving cases. I have in Kawal Sachdeva Vs. Bala Rana MANU/DE/1050/2013 dealt in detail the said aspect and need is thus not felt to elaborate further.

32. In the present case the argument raised by the appellant / defendant of the defence of Section 53A of the Transfer of Property Act is but a bogey or an illusion intended to delay the ejectment of the appellant / defendant from the property and cannot be allowed to come in the way of immediate disposal of the suit. There is nothing worth adjudication neither on the factual pleas nor on legal pleas so as to deprive the respondents/ plaintiffs from a decree of ejectment under Order 15 or under Order 12 Rule 6 of the CPC.”

23. It is not the appellant's plea that he was an old acquaintance of the respondent/ plaintiff, and there was such mutual trust between the parties that it was not even considered necessary to reduce the terms of their alleged subsequent agreement in writing. In fact, when the parties first entered into the rent agreement, they recorded the terms in the lease agreement dated 03.12.2011. If the parties were desirous of entering into a fresh lease on drastically changed terms & conditions, nothing prevented them from again reducing the terms in writing, particularly, when the appellant claims to have advanced a substantial amount of Rs.5 Lacs to the respondent as security on the condition that the rent shall stand reduced from Rs.12,000/- to Rs.2,000/- . Pertinently, it is not the appellant's case that the said reduction was for a limited period till the amount of Rs.5 Lacs - allegedly advanced by the appellant, had been adjusted. If the plea of the appellant is accepted with regard to entering into subsequent alleged agreement, and that the premises is protected under the DRC Act, it would mean that for years together the respondent would receive a paltry amount of Rs.2,000/- per month with fractional increase of 10% in three years, before the property goes out of the clutches of the DRC Act, by when the appellant would have recovered amounts far in excess of the amount of Rs.5 Lacs, allegedly advanced to the

respondent as a “security”. The said plea of the appellant is, on the face of it bogus and defies logic, and this Court finds the said plea to be completely abhorrent to commonsense and natural course of human conduct. In my view, the said plea of the appellant cannot be considered to be a material pleading requiring framing of an issue, and sending the parties to trial thereon. The said plea is patently frivolous and bogus and deserves to be rejected at the very threshold. Thus, the Courts below were completely justified in not framing an issue on the said plea of the appellant and sending the parties to trial thereon.

24. The Trial Court has rightly passed the said decree as the parties were not at issue on any question of law or of fact qua the relief of ejectment/possession is concerned. The decree could, therefore, be passed under Order 12 Rule 6 read with Order 15 Rule 1 CPC.

25. As noted above, in any event, even if the submission of the appellant/defendant were to be accepted with regard to the alleged reduction of rent Rs.2,000/- p.m., since the suit premises is not covered by the provisions of the DRC Act, which would include section 50 thereof, the tenancy of the appellant was not protected by the said Act, and the respondent/plaintiff was entitled to terminate the tenancy - which she did, and to seek ejectment/possession of the appellant. For all the aforesaid reasons, I find no merit in this appeal and the same is, accordingly, dismissed.

26. The endeavour of the appellant appears to be to perpetuate his possession in the suit premises by setting up a fanciful, bogus, and wholly

unsubstantiated plea of his advancing a sum of Rs.5 lacs in cash without any receipt or acknowledgement by the plaintiff, and of reduction of rent to Rs.2,000/- from Rs.12,000/- (whereas the same should have been increased to Rs.13,200/- in terms of the rent agreement dated 03.12.2011). The said endeavour of the appellant appears to be rather mischievous and aims at harassing and exploiting the respondent/landlord who is a senior citizen aged 85 years old. In the process, the appellant has also burdened the judicial system with his frivolous pleas. In these circumstances, the present appeal is dismissed with costs of Rs.50,000/-. The costs be deposited with the Delhi Legal Services Authority, since the appeal is being dismissed without issuing notice to the respondent. Receipt of payment of costs shall be filed in the Court. In case the costs are not deposited, the matter shall be listed before the Court by the Registry.

VIPIN SANGHI, J

DECEMBER 08, 2015

B.S. Rohella/sr