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

+ RFA 1031/2016 and C.M. NO. 47948 & 47949/2016.

SURJIT SINGH @ MONU

..... Appellant

Through: Mr. Sonal Sinha, Ms. Anju Rani,
Advocates.

versus

SANT NIRANKARI MANDAL (REGD)

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

23.12.2016

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1. The appellant has filed the present appeal against the order dated 05.11.2016 passed by the learned trial court, allowing an application filed by the respondent/plaintiff under Order XII Rule 6 CPC and decreeing the suit for possession in respect of Flat No.16, situated in Plot No.100, Sant Nirankari Colony, Delhi.

2. The case of the respondent/plaintiff as set up before the trial court is that it is a registered Society set up to impart and spread the message of the humanity and universal brotherhood of mankind. The appellant/defendant had offered himself as a 'Sewadar' in the true traditions of 'Guru & Shisheya' and to be part of spiritual movement of the respondent/plaintiff. The said request was acceded to and the appellant/defendant was inducted by the respondent/plaintiff as a 'Sewadar'. The respondent/plaintiff started

paying a maintenance amount to the appellant/defendant and permitted him to occupy the subject premises along with his family, without any consideration. In view of the licence granted to the appellant/defendant to occupy the said premises on a non-payment, he had submitted a Declaration-cum-Undertaking dated 26.5.2010, stating *inter alia* that the appellant/defendant had permitted him and his family members to use and occupy the said premises for his residence with effect from 26.5.2010; that the said premises was given to him without any consideration; that he would not permit any third party to use the said premises for any purpose; that he shall not undertake any additions/alterations therein; that he and his family shall not stake any claim in respect of the said premises and abide by all the rules and regulations of the respondent/plaintiff, as may be issued from time to time.

3. The penultimate para of the aforesaid Declaration-cum-Undertaking is material and reads as below:-

“7. That I hereby declare and undertake to vacate and surrender the possession of the said premises peacefully to the Mandal, alongwith to the Mandal, alongwith its fixture and other articles, without any objection or hindrance, as and when directed by the Mandal. I further declare that I personally as well as all my family members, heirs/dependants fully undertake that I am allowed by the Mandal, to occupy the above said portions/premise only on accounts of missionary activities entrusted to me. My heirs/dependants/successors etc. will hand over the peaceful possession of the premise to the Mandal immediately after my demise or as and when directed by the Mandal to do so.”

4. The respondent/plaintiff claims that the appellant/defendant started indulging in dereliction of duty, disobeyed the orders and committed

serious omissions and commissions as a 'Sewadar'. As a result, he was called in the meeting of the Executive Committee of the respondent/plaintiff on 07.7.2015 and when confronted with his misdemeanour and acts of omissions and commissions, he admitted to his conduct and abandoned the 'sewa' of the respondent/plaintiff from 07.7.2015 itself. Though, the appellant abandoned the 'sewa', he continued to occupy the subject premises. The respondent/plaintiff issued a legal notice dated 09.7.2015 to the appellant/defendant seeking vacant, peaceful possession of the suit premises, but he failed to comply. Instead, the appellant/defendant dispatched a reply dated 24.7.2015 to the respondent/plaintiff, contesting their claim. On his refusal to vacate the suit premises, the aforesaid suit for possession, damages, etc., was filed by the respondent/plaintiff in July 2015.

5. Summons in the suit were served on the appellant/defendant who filed his written statement in November, 2015. After the pleadings were completed in the suit, the respondent/plaintiff filed an application under Order XII Rule 6 CPC stating *inter alia* that the appellant/defendant had failed to specifically deny the pleas taken by it that he was occupying the suit premises as a licensee, in his capacity as a 'Sewadar' and in view of the vague pleas taken by him in the written statement, and on his failure to deny any of the averment made in the plaint, the same may be taken to be admitted under Order VIII Rule 5 CPC and a judgment on admissions be passed.

6. Holding that the appellant/defendant had made bald denials in respect of the specific averments made in the plaint, without making any clear averments in the written statement, which would amount to evasive denial and further, having regard to the fact that the appellant/defendant had

admitted to submitting a Declaration-cum-Undertaking dated 26.5.2010 to the respondent/plaintiff, the learned trial court opined that he was a licensee in the suit premises which had been given to him without any consideration/licence fee and that the said licence had been revoked vide legal notice dated 09.7.2015, receipt whereof was also not denied by him. Resultantly, the respondent/plaintiff's application under Order XII Rule 6 CPC was allowed and a decree of possession was passed in its favour in respect of the subject premises.

7. It may be noted here that the appellant/defendant had filed an application under Order XI Rules 12 and 14 of the CPC, for directions to the respondent/plaintiff to file the original title documents of the suit premises which it did.

8. Aggrieved by the aforesaid judgment, the present appeal has been filed by the appellant/defendant. Learned counsel for the appellant/defendant has argued that the trial court had erroneously held that there is an unequivocal or clear admission on the part of the appellant as a licensee in respect of the said premises, which position is not borne out from the pleadings in the suit and in the absence of any such pleadings, no judgment on admission could have been passed against him. In support of the said submission, learned counsel for the appellant refers to the averments made by the respondent/plaintiff in para 12 of the plaint and has juxtaposed the same with the averments made by the appellant/defendant in the corresponding para of the written statement.

9. The aim and object of enacting the provision like Order XII Rule 6 CPC is to empower the court to pronounce a judgment on admission, when such admissions are considered sufficient to entitle the plaintiff to a decree.

The underlying object of enacting such a provision is to ensure speedy justice and save the parties from undergoing the travails of a protracted trial. Such admissions can be in the pleadings or otherwise, namely, in documents, correspondence etc. Admissions can also be oral or in writing. Admissions can be constructive admissions and need not be specific or expressive, which fact can be inferred from the vague and evasive denial in the written statement while replying to the specific pleas taken by the plaintiff in the plaint.

10. The question whether there is a clear admission or not cannot be decided on the basis of judicial precedents. The Court must examine the facts and circumstances in every case. Admissions can even be inferred from the facts and circumstances of the case (Ref: Delhi Jal Board vs. Surendra P. Malik; **2003 III AD (Del) 419**). Whether there are clear and unambiguous admissions by one of the parties to the suit remains essentially a question of fact and any decision on the said question would depend on the facts of a particular case.

11. The law on the aspect as to what would constitute “pleadings or otherwise”, the words used under Order XII Rule 6 CPC for passing a judgment on admissions is well settled. There are a line of decisions by the Supreme Court and the High Court that at the time of passing a judgment, if the Court has sufficient material before it that can prima facie satisfy it about the existence of the grounds for eviction, which include expressed/implied admissions, they can validate passing of a decree on the basis of such admissions.

12. In the landmark case of Uttam Singh Duggal and Co. Ltd. vs. Union Bank of India reported as **AIR 2000 SC 2740**, the Supreme Court had held

that admissions can be those with reference to pleadings in an application under Order XII Rule 6 CPC and such pleadings would also fall within the parameters of the expression, “pleadings or otherwise”, used under Order XII Rule 6 CPC.

13. In the case of Shri Vimal Khanna and Anr. vs. Sh. Kishan Chand Khanna reported as **DRJ 116 (2010) 251** a Division Bench of this Court had held that if otherwise found entitled to a decree on admissions, the plaintiff cannot be deprived thereof by astute drafting of the written statement and/or by taking pleas therein which have no legs to stand upon. It has also been held that a defence, which is implausible and on a meaningful, but not formal reading, is manifestly vexatious and meritless, clever drafting should not be allowed to create an illusion and such defences should not be needlessly permitted to go to trial. (Ref: T. Arivandandam vs. T.V. Satyapal; (1977) 4 SCC 467).

14. For the sake of considering the argument advanced by learned counsel for the appellant/defendant that his client had not made any admissions in the written statement, it is deemed appropriate to reproduce hereinbelow, the averments made by the respondent/plaintiff in para 12 of the plaint and the reply thereto in the corresponding para of the written statement filed by the appellant/defendant.

Para 12 of the plaint :-

“12. That the defendant were granted licence to occupy the said premises on the license fee Free Basis and terms thereof were reduced in writing vide declaration-cum-undertaking dated 26.5.2010. The defendant specifically undertook to vacate the said premises as and when demanded by the plaintiff and declared that he understands that he were allowed to occupy the

said premises as long as plaintiff desires.”

Para 12 of the written statement:-

“12. Para no.12 of the plaint is wrong and denied. The plaintiff be put strict proof to prove all the allegations mentioned in this para.”

15. It is clear on a reading of the written statement that vague and bald denials have been made by the appellant/defendant, without elaborating the plea taken by him to oppose the relief prayed for by the respondent/plaintiff. In such circumstances, the provisions of Order VIII Rule 5 CPC would come into play and the said denial shall have to be treated as an admission.

16. Moreover, as noted above, the appellant/defendant had signed a Declaration-cum-Undertaking dated 26.05.2010, admitting inter alia that the respondent/plaintiff had built the subject flat at Sant Nirankari Colony, Delhi and he had been allowed to reside there alongwith his family members. He had also stated that the said premises had been given to him without any consideration. The appellant/defendant had specifically undertaken to vacate and surrender the possession of the flat to the respondent/plaintiff as and when directed and had admitted that he had been permitted to occupy the same only on account of the missionary activities entrusted to him.

17. In view of the aforesaid clear and categorical statements made by the appellant/defendant in the Declaration-cum-Undertaking, that find mention in para 12 of the plaint, a bald denial thereof by him in the corresponding para of the written statement would not be of any assistance. Not only has the respondent/plaintiff filed the said document, which has not been denied by the defendant, it has also placed on record the originals of the title deed

of the subject premises thus taking the wind out of the sails of the appellant/defendant and demolishing his plea that it is not the owner of the premises. In view of the clear and unequivocal admissions made by the appellant/defendant as contained in the Declaration-cum-Undertaking and the bald denials made by him in his written statement, the trial court had every reason to decree the suit for the relief of possession in favour of the respondent/plaintiff.

18. This Court is of the opinion that there is no irregularity, impropriety or perversity in the impugned judgment that deserves interference. Accordingly, the present appeal is dismissed in *limine* alongwith the pending applications, as being devoid of merits.

DECEMBER 23, 2016
rkb/ap

HIMA KOHLI, J