

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

+ **RFA No. 844/2017**

% **27th September, 2017**

MS. PINKI JAIN Appellant

Through: Ms. Aruna Kumari Pawar and
Ms. Shabista Nabi, Advocates

versus

SMT. SUMAN BALA BHASIN Respondent

Through: Mr. Shohit Chaudhry and Mr.
Anuj Jhavar, Advocates

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

Caveat No. 865/2017

Counsel for the caveator enters appearance.

Caveat stands discharged.

C.M. Appl. No. 36048/2017 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

RFA No. 844/2017 and C.M. Appl. No. 36047/2017 (for stay)

1. This Regular First Appeal is filed under Section 96 of the Code of Civil Procedure, 1908 (CPC) impugning the judgment of the

trial court dated 25.08.2017 by which the trial court has decreed the suit for the relief of possession under Order XII Rule 6 CPC.

2. The suit property is LIG Flat bearing No. D-1C/18A, Ground Floor, Janak Puri, New Delhi. There is no dispute that there is a relationship of landlord and tenant between the parties. It is also not in dispute as per the written statement that the rate of rent is above Rs.3,500/- per month and thus there is no protection of the Delhi Rent Control Act, 1958. Application under Order XXXIX Rule 10 CPC had been allowed to the extent that the appellant/defendant shall pay the admitted rent at the rate of Rs.15,000/- per month.

3. In Delhi, once there exists a relationship between landlord and tenant between the parties and the rate of rent is above Rs.3,500/- per month, there is no registered lease deed for the tenanted premises for a period, then, by serving a notice under Section 106 of the Transfer of Property Act, 1882 the suit for possession can be filed. Infact, there is no need of sending of a legal notice under Section 106 of the Transfer of Property Act, because service of summons of the suit have been taken by the Courts to be service of notice under Section 106 of the Transfer of Property Act vide *M/s. Jeevan Diesels*

and Electricals Limited Vs. Jasbir Singh Chadha (HUF) and Anr.
(2011) 183 DLT 712.

4. Therefore, once all the aspects as to existence of relationship of landlord and tenant, rate of rent being above Rs.3,500/- per month and service of summons in the suit being taken as service under Section 106 of the Transfer of Property Act, the trial court has committed no illegality in decreeing the suit.

5. Learned counsel for the appellant/defendant argues that the courts at Dwarka, New Delhi had no territorial jurisdiction because territorial jurisdiction will be of the District Court, Central in Tis Hazari Courts. It is argued that the suit plot falls under the jurisdiction of Police Station Maya Puri and Police Station Maya Puri is under the jurisdiction of the District Judge, Central, Tis Hazari Courts, Delhi and not at Dwarka Courts.

6. In my opinion, false and frivolous defences are not *bonafide* disputed questions of fact which require trial. After all, all the properties are in Delhi and issue of territorial jurisdiction is not an issue of lack of inherent jurisdiction. Issues of territorial and pecuniary jurisdiction are not issues of lack of inherent jurisdiction because such

objections can be waived as per Section 21 CPC. Also a self-serving pleading without any substantiation would only be a mantra and uttering of a mantra of lack of territorial jurisdiction does not mean that sufficient pleading exist to show that the courts at Delhi do not have jurisdiction. Order VI Rule 4 CPC requires that wherever appropriate particulars are to be given then such particulars should be given and therefore it was upon the appellant/defendant/tenant to give particulars as per various notifications issued by this Court as to how the Courts at Dwarka do not have jurisdiction.

7. Learned counsel for the respondent/plaintiff/landlord has filed in this Court notification dated 19.7.2016 whereby the civil cases of Janakpuri were transferred to Dwarka Courts. This notification being a gazette notification is a public document and therefore this Court can refer to the same. This notification reads as under:-

“(TO BE PUBLISHED IN DELHI GAZETTE PART-IV EXTRA-ORDINARY)

**GOVERNMENT OF NATIONAL CAPITAL TERRITORIAL OF DELHI
DEPARTMENT OF LAW, JUSTICE AND LEGISLATIVE AFFAIRS
8TH LEVEL, C-WING, DELHI SECRETARIAT, I.P. ESTATE, NEW
DELHI-110002**

No.F.1/3/2013-Judl./P.F./Suptlaw/671-683

Dated the 19 July, 2016

NOTIFICATION

No.F.1/3/2013-Judl./P.F./Suptlaw/671-683 : In exercise of the powers conferred by sections 19 and 20 of the Punjab Courts Act, 1918 (Punjab Act 6 of 1918) as extended to the National Capital Territory of Delhi and sections 7,

8 and 9 of the Code of Criminal Procedure 1973 (Act No. 2 of 1974), and in continuation of earlier Notification Nos.F.6/33/89-Judl./Vol.I/814-824 dated the 17th October 2012 and No. F.6/33/89 Judl./Vol.I/803-813 dated the 17th October 2012, the Lieutenant Governor of the National Capital Territory of Delhi, hereby reorganizes the West and South West Civil Districts/Sessions Divisions/ Metropolitan Areas of Delhi inasmuch as transfer of three police stations viz. Uttam Nagar, Vikas Puri and Janak Puri from the West District to the South-West District so as to enable the cases under their jurisdiction be filed in the Sessions division at Dwarka Court Complex. However, the existing criminal cases relating to police stations Uttam Nagar, Vikaspuri and Janakpuri, which were filed and are pending in the Sessions Courts at Tis Hazari will not be transferred to the Sessions Courts at Dwarka. Further, a new police station at Vikas Nagar, is envisaged. The police station will comprise of substantial areas presently under the police station Ranhoula. The said police station at Vikas Nagar when established will form part of South-West Sessions Division. Accordingly, criminal cases emanating from Police Station at Vikas Nagar will be filed in the Sessions division at Dwarka Court Complex.

Further, new civil cases filed on or after cut-off date, relating / pertaining to territorial jurisdiction of the eight villages viz. Boudhela, Nangli Jalib, Posangipur, Asalat Pur Khadar, Hastsal, Raja Pur Khurd, Nawada Mazara Hastal and Matiala of erstwhile West District, will be filed at the District Court Complex at Dwarka. However, existing or cases already filed before a cut-off date, which can be fixed, will not be transferred and will be dealt with and adjudicated in the District Court Complex at Tis Hazari.

The territorial limits of West and South West Civil Districts/ Sessions Divisions/ Metropolitan Areas of Delhi, after the hereinabove re-organization thereof, shall be co-terminus, with slight variance, with the West and South-West District Jurisdiction as notified vide Notification No. F. PS/Div. Com/Misc./2011/1796 dated the 17th June 2015 issued by the Revenue Department, Government of National Capital Territory of Delhi.

This notification shall come into force on the date of its publication in the official Gazette.

नालयमेव जयते

By order and in the Name of the

Lt. Governor of National
Capital Territory of Delhi.

Sd/-

(O.P. MISHRA)

Additional Secretary (Law, Justice & L.A.)”

(underlining added)

8. In view of the above the appeal is totally frivolous.

Appellant/defendant/tenant who does not have a registered lease deed

in her favour is dishonestly continuing to stay in the tenanted premises after termination of tenancy.

9. At this stage, after the judgment was dictated it is stated that the appellant/defendant will vacate the suit premises and appellant/defendant be granted time to vacate the suit premises till 31.12.2017. It is also stated that since admittedly the rate of rent is not paid since April, 2017 at the rate of Rs.15,000/- per month, appellant/defendant will clear arrears of rent at this rate within a period of two weeks from today. Future charges month by month will be positively paid by 15th of each month. Appellant/defendant will clear all charges towards electricity and water, etc. as payable for the suit premises every month till the appellant/defendant stays in possession of the premises. Payment of rent in terms of the present order is a tentative assessment with respect to payment of rent or *mesne* profits as claimed by the respondent/plaintiff and which aspects of money decree will be finally decided as these issues are pending disposal before the trial court so far as the relief of recovery of moneys and *mesne* profits which are claimed by the respondent/plaintiff.

10. Let the appellant/defendant/tenant file an undertaking in this Court in terms of the present order within a period of one week from today and on the appellant/defendant filing the undertaking and complying with the terms of the undertaking the appellant/defendant will get time to vacate the suit premises on or before 31.12.2017.

11. The appeal is accordingly disposed of as not pressed but the appellant/defendant is given time to vacate the suit premises on or before 30.12.2017 in terms of the aforesaid observations.

SEPTEMBER 27, 2017
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VALMIKI J. MEHTA, J

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