

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

+ **RSA No. 251/2017**

% **30th October, 2017**

SHRI AJAY KUMAR SINGH Appellant
Through: Mr. Anuj Kumar
Garg, Advocate.

Versus

SHRI RAMPAL SINGH Respondent

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

CM No. 38713/2017 (Exemption)

Exemption allowed subject to just exceptions.

CM stands disposed of.

CM No.38714/2017 (delay in filing)

For the reasons stated in the application, delay in filing is
condoned subject to just exceptions.

CM stands disposed of.

RSA No. 251/2017

1. This Regular Second Appeal is filed under Section 100 of
the Code of Civil Procedure, 1908 (CPC) impugning the concurrent

judgments of the courts below; of the trial court dated 2.6.2016 and the first appellate court dated 17.5.2017, by which the courts below have decreed the suit for possession filed by the respondent/plaintiff/landlord under Order XII Rule 6 CPC.

2. In Delhi, once the rate of rent is more than Rs.3500/- and there is no registered lease deed for a particular period entitling a tenant to stay in the premises, such monthly tenancy can be terminated by notice under Section 106 of the Transfer of Property Act, 1881. In fact, it has been held by this Court in the case of *Jeevan Diesels and Electricals Limited Vs. Jasbir Singh Chadha (HUF) & Anr., (2011) 183 DLT 712* that service of summons of the suit can also be treated as service of notice under Section 106 of the Transfer of Property Act.

3. In the present case, the courts below have held that there are admissions for decreeing of the suit so far as the relief of possession is concerned under Order XII Rule 6 CPC because appellant/defendant/tenant in an earlier suit filed by him against the respondent/plaintiff/landlord had admitted the relationship of landlord and tenant and that the rate of rent was Rs.11,500/- per month. Therefore, once both the aspects of existence of relationship of landlord and tenant and rate of rent being more than Rs.3500/- exists with the fact

that there is no registered lease deed in favour of the appellant/defendant, there is no illegality in the judgments of the courts below decreeing the suit for the relief of possession. I may note that proceedings will go on before the trial court for determination of *mesne* profits.

4. There is no merit in the appeal. Dismissed.

OCTOBER 30, 2017/ib

VALMIKI J. MEHTA, J

