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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RSA 26/2018 & CM APPL. 5980/2018, CM APPL. 5981/2018

HARISH CHANDER KHANNA

..... Appellant

Through: Mr. Kumar Rajesh Singh and Ms.
Punam Singh, Advs.

Versus

MUKAND LAL

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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16.02.2018

The appellant impugns an order dated 03.10.2017 which has directed payment of arrears of rent. Admittedly, the rent of Rs.2,700/- p.m. was payable for the tenanted premises with effect from 04.02.2005. With the efflux of time, the said rent was enhanced by 10% every three years i.e. on 04.02.2008, 04.02.2011 and 04.02.2014. By the time of filing of the suit on 18.05.2015 it had become more than Rs.3,500/- per month. Accordingly, it was held that the Civil Court would not be barred under section 50 of the Delhi Rent Control Act, 1958 from adjudicating upon the *lis*.

The Appellate Court took into consideration the findings of the Trial Court which held that since the tenant and the landlord did not share the best of terms, therefore, the tenant's contention that the rents were paid in cash, was untenable. The decision was based on the following reasoning of the Trial Court:-

“It is pertinent to mention here that since July 2006 the respondent/tenant has been making complaints on various grounds & number of complaints have been attached by the respondent. There is a complaint of disconnection of water supply also. When the respondent is making complaints on one ground or the other no prudent man can believe that he has made the payment in cash when the relationship is not cordial.”

The Appellate Court held that the arrears of rent @ Rs.2,700/- per month would be payable with effect from October, 2005. Simply because the arrears of Rs.2,700/- p.m. has been decreed as payable would not render the case to have been tried by the Rent Controller under the DRC Act, 1958. The decree is by a court which could adjudicate on recovery of rents, where at the time of filing the suit, the monthly rental was over Rs.3,500/-. The recovery of arrears could not have been more than the amount due i.e. Rs.2,700/- per month. No error is discerned in the impugned order. The Court finds no reason to interfere with it. The appeal is without any merit, and is accordingly, dismissed.

NAJMI WAZIRI, J.

FEBRUARY 16, 2018/acm