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

+ CM(M) 1008/2022 & CM APPL. 41802/2022, CM APPL. 41803/2022

SH. ANIL KUMAR KUCHHAL & ANR. Petitioners

Through: Mr.Sujeet Beniwal, Adv.

versus

SH. PRADYUMAN KUMAR AGGARWAL & ANR.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T (O R A L)

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21.09.2022

1. Eviction Petition No. 120/2018 was instituted by Krishan Kumar Aggarwal HUF ("the HUF") against the petitioners Anil Kumar Kuchhal under Clause (a) of the proviso to Section 14(1) of the Delhi Rent Control Act, 1958 (the DRC Act). The respondents are the legal heirs and successors-in-title of Krishan Kumar Aggarwal, the *Karta* of the HUF.

2. In the Eviction Petition, the HUF contended that the present petitioners (the respondents in the eviction petition) were tenants under the eviction petitioner-HUF in respect of a shop situated on the ground floor of property no. 1727B, Lala Birjumaal Building, Ram Gali, Bhagirath Palace, Chandni Chowk, Delhi-110006 ("the tenanted premises"). The petitioners were, as noted, alleged to be tenants under the HUF in respect of the tenanted premises at a monthly rent of ₹



1,200/-, payable on a month to month basis. The eviction petition further averred that the rent was payable in advance by the 7th day of each English calendar month.

3. The Eviction Petition alleged that the petitioners were defaulting in payment of rent in respect of the tenanted premises.

4. The petitioners instituted DR Petition No. 102/2013 before the learned Additional Rent Controller (“the learned ARC”) under sub-sections (1) and (2) of Section 27¹ of the DRC Act, for permission to deposit arrears of rent with effect from 1st April 2011 to 31st March 2013, alleging that the respondent was not accepting rent as tendered by the petitioners. I may note that the said DR Petition 102/2013 is of no particular relevance to the issue in controversy.

5. During the pendency of the said DR Petition No. 102/2013, the HUF, issued a notice of demand to the petitioners on 27th May 2013, calling on the petitioners to deposit the arrears of rent with effect from 1st April 2013 alongwith interest.

¹ 27. **Deposit of rent by the tenant. –**

(1) Where the landlord does not accept any rent tendered by the tenant within the time referred to in Section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a *bona fide* doubt as to person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner:

Provided that in cases where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may remit such rent to the Controller by postal money order.

(2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:-

- (a) the premises for which the rent is deposited with a description sufficient for identifying the premises;
- (b) the period for which the rent is deposited;
- (c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;
- (d) the reasons and circumstances for which the application for depositing the rent is made;
- (e) such other particulars as may be prescribed.



6. A second petition, under Section 27 of the DRC Act, being DR Case No. 490/2013 was also preferred by the petitioners, for permission in June 2013, to deposit rent for the period April 2013 to June 2014. Given that the petition was filed in June 2013, the petitioner evinced his desire to deposit arrears of rent for the period April to June 2013 and advance rent for the period July 2013 to June 2014.

7. DR 490/2013 was allowed by the learned ARC on 6th January 2014. Thereafter, the petitioners admittedly deposited, in January 2014 itself and within the time allowed by the learned ARC, the arrears of rent for the months of April and May 2013, as well as rent payable for the period June 2013 to June 2014.

8. The arrears for the month of April and May 2013 were, however, deposited without interest.

9. Contending that payment of the arrears of rent without interest, for the months of April and May 2013, did not constitute payment of the due amount of rent payable in respect of the tenanted premises, the respondents, *vide* Eviction Petition No. 120/2018, under Section 14(1)(a) of the DRC Act, sought eviction of the petitioners.

10. In the said Eviction Petition No. 120/2018, the petitioners moved an application under Order VII Rule 11 of the CPC, seeking dismissal of the eviction petition on the ground of want of any sustainable cause of action. It was sought to be contended that, as the



petitioners had deposited the arrears of rent in accordance with the order dated 6th January 2014, passed by the learned ARC in DR 490/2013, they could not be said to be in default of arrears of rent as could maintain the Eviction Petition under Section 14(1)(a). It was also pointed out, in the said application, that advance rent for the period June 2013 to 30th June 2014 had also been deposited by the petitioners.

11. The learned ARC dismissed the petitioners' application under Order VII Rule 11 of the CPC, against which the petitioners appealed to the learned Rent Control Tribunal *vide* RCT 50/2022, which also stands dismissed by the impugned order dated 5th August 2022.

12. The learned RCT has held that, in the demand notice dated 27th May 2013, the respondents had called upon the petitioners to clear all arrears of rent along with interest due thereon. In para 2 of DR 490/2013, the respondent contended that the rent which the petitioners sought to deposit in the Court under Section 27 constituted the arrears of rent for the months April to June 2013 and advance rent for the period from July 2013 to June 2014. Precisely quoting from DR 490/2013, the petitioners sought permission to deposit, in Court, "*the rent for the period of April 2013 to June 2013 @ ₹ 1,200/- per month totalling to ₹ 3,600/- alongwith advance rent for the period July 2013 to June 2014 @ ₹ 1,320/- per month totalling to ₹ 15,840/-*".

13. Clearly, therefore, the petition did not offer to deposit interest on the arrears of rent for the period April to June 2013.



14. Even when the rent was deposited, consequent to the orders passed in DR 490/2013 on 6th January 2014, therefore, the rent for the period April 2013 to June 2013 did not carry interest.

15. In that view of the matter, the learned ADJ held thus:

“9. In para 6 of the rent demand notice dated 27.05.2013, the respondents landlords called upon the appellants tenants to clear all arrears of rent, specifically with interest due thereon. In para 2 of the rent deposit petition, the appellants tenants consciously pleaded that the period for which the rent was deposited was “w.e.f 01.04.2013 to 30.06.2013 @ Rs. 1200/- per month totalling Rs. 3600/- AND Advance Rent for the period 01.07.2013 to 30.06.2014 @ Rs. 1320/- per month totalling to Rs. 15840/-” . It is absolutely clear that for the period from 01.04.2013 to 30.06.2013, no interest on the rent arrears was deposited by the appellants tenants. Therefore, it cannot be said that for the said period, complete rent was deposited, atleast for the purposes of considering an application under Order VII Rule 11 CPC.”

16. The learned ADJ has, therefore, noted that (i) no interest for the arrears of rent due for the period April to June 2013 had been paid by the petitioner and (ii) the advance rent which were paid for the period 1st July 2013 to 30th June 2014 could not be said to include interest for the period April to June 2013.

17. As such, as no interest on the arrears of rent for the period April to June 2013 having been paid by the petitioners, the learned ARC and the learned RCT have held that the Eviction Petition was maintainable under clause (a) of the proviso to Section 14(1) of the DRC Act.

18. As such, the application for rejection of the petition under Order VII Rule 11 of the CPC was found to be bereft of merit and was



accordingly dismissed both by the learned ARC and the learned RC.

19. Article 227 of the Constitution of India has been invoked, thereagainst.

20. I find no reason to interfere with the impugned order. The learned ARC and RCT were correct in holding that the deposit made consequent to the order passed by the learned ARC in DR 490/2013 on 6th January 2014 did not include the component of interest on the arrears of rent for the period April to June 2013.

21. That being so, the petitioners could not be said to have deposited the complete rent payable for the period April to June 2013. As such, the eviction petition was maintainable under Clause (a) of the proviso to Section 14(1) of the DRC Act.

22. The present petition is, therefore, bereft of merit and is dismissed with no orders as to costs.

23. Costs imposed on the petitioners by the Courts below shall stand waived.

24. Miscellaneous applications, if any, also stand disposed of.

C.HARI SHANKAR, J

SEPTEMBER 21, 2022/kr