



\$~22 (2022 Cause List)

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

Date of Decision:- 18th January, 2022

+ CM(M) 57/2022

SMT.USHA @ DURGAWATI DEVI Petitioner
Through: Ms. Rajeshwari, Advocate.

versus

SH DILIP KUMAR SINGH Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

PRATEEK JALAN, J. (Oral)

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 3116/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 57/2022 & CM APPL. 3115/2022 (for stay)

1. The petitioner, by way of this petition under Article 227 of the Constitution, assails a judgment dated 07.12.2020 rendered by the Principal District & Sessions Judge, South East District, Saket Court, New Delhi, in RCT No. 17/2019 [*Smt. Usha @ Durgawati Devi vs. Dilip Kumar Singh*]. By the said judgment, the learned District & Sessions Judge has dismissed the appeal filed by the petitioner against



the judgment dated 20.08.2019 of the learned Additional Rent Controller [“ARC”].

2. The petitioner was a tenant of the premises in question [*House No. B-37, Harkesh Nagar, New Delhi-110020*] [“the premises”], in respect of which the respondent-landlord filed eviction proceedings in August, 2018. Although the landlord claimed that the tenancy had been created in the year 2011, the petitioner asserted a tenancy in existence since the year 2007. According to the petitioner, the rent, which was originally ₹750/- per month, and enhanced to ₹2,300/- per month was paid until March, 2018.

3. By the judgment dated 20.08.2019, the ARC allowed the respondent’s application for eviction and directed the petitioner to pay the unpaid rent @ ₹2,300/- per month from 01.01.2016 to 31.03.2018 and from 01.01.2019 onwards. The petitioner filed an appeal under Section 38 of the Delhi Rent Control Act, 1958 [“the Act”], in which the impugned judgment has been rendered.

4. The petitioner states that after the judgment of the ARC, the premises was vacated and possession handed over to the respondent-landlord on 09.09.2019. The appeal was therefore confined to the question of whether the petitioner was liable to pay rent since 01.01.2016 or only from March, 2018.

5. Having heard Ms. Rajeshwari, learned counsel for the petitioner, I am of the view that the present case does not disclose any such jurisdictional error so as to attract the supervisory jurisdiction of this Court under Article 227 of the Constitution.

6. As noted above, the only question upon which the appeal was



decided, and upon which the present petition is predicated, is whether the petitioner is liable to pay the amount of rent for the period from 01.01.2016 or only after 31.03.2018 as claimed by her. The learned Appellate Court has noted that the relationship of landlord-tenant between the parties was admitted and that, according to the petitioner herself, the tenancy was created in the year 2007.

7. In view of the admitted case of the parties that no rent receipts were issued, as required under Section 26 of the Act, the learned Appellate Court has held that the period of default was required to be determined from the surrounding circumstances. In this regard, the learned Appellate Court has disbelieved the case of the petitioner that she continued to make payments of rent without obtaining any receipt despite the fact that the relations between the parties had become acrimonious at least since April, 2016. The petitioner had, in fact, registered a First Information Report against the respondent-landlord arising out of a quarrel between the parties in November, 2016, but claims to have continued to make rent payments thereafter without obtaining any receipt for the same. It is in these circumstances that the learned Appellate Court has affirmed the findings of the ARC in this regard.

8. The jurisdiction of this Court under Article 227 of the Constitution is limited and discretionary. It does not extend to reappreciation of evidence as an appellate forum, and the Supreme Court has clearly laid down that the High Court, under Article 227 of the Constitution, will not intervene to correct every error of law or fact committed by the courts below. As long as there is some evidence to



support the finding rendered by the Trial Courts, the question of exercising supervisory jurisdiction would not arise. In *Estralla Rubber vs. Dass Estate (P) Ltd.*¹, the Supreme Court has clarified this position in the following terms:-

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

This judgment has been followed in the recent judgment of the Court in *Garment Craft vs. Prakash Chand Goel*² (paragraph 18).

¹ (2001) 8 SCC 97

² 2022 SCC OnLine SC 29 [Civil Appeal No. of 2022 (Arising out of S.L.P. (C) No. 13941 of 2021); decided on 11.01.2022]



9. In the present case, the evidence has been adequately discussed in the impugned judgment and the learned Appellate Court has come to a finding against the petitioner, affirming the view taken by the Trial Court. The petitioner has, in my view, not been able to cast a doubt on these findings, particularly to the high standard required for exercise of the supervisory jurisdiction of this Court.

10. For the aforesaid reasons, the present petition, alongwith the pending application, is dismissed.

PRATEEK JALAN, J.

JANUARY 18, 2022

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