

Date of Decision : 24.01.2023

1. CR-3495-2021(O&M)

SURAKSHA KUMARI AND OTHERS ...Petitioners

versus

JAWAHAR LAL BABBARRespondent

2. CR-3496-2021 (O&M)

SURAKSHA KUMARI AND OTHERS ...Petitioners

versus

JAWAHAR LAL BABBARRespondent

3. CR-263 of 2022 (O&M)

SURAKSHA KUMARI AND OTHERS ...Petitioners

versus

JAWAHAR LAL BABBARRespondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : None for the petitioners.
Mr. Deepak Girhotra, Advocate for the respondent.
*****B.S. Walia, J. (Oral)**

[1] This order shall decide CR-3495-2021, CR-3496-2021 and CR-263-2022 as identical point is in issue. Facts of the case are being taken from CR-3495-2021.

[2] Prayer in **CR-3495-2021& Cr. No. 3496 of 2021** is for setting aside order dated 26.10.2021 passed by the learned Appellate Authority in Rent Appeal No. 37 of 2020 in case titled as Smt. Suraksha Kumari and others vs. Jawahar Lal Babbar, as well as Cross Objections No. 51 of 2020 in case titled as Smt. Suraksha Kumari and others vs. Jawahar Lal Babbar, against the judgment dated 27.01.2020 passed by the learned Rent Controller, Rohtak.

[3] Learned Rent Controller vide judgment dated 27.01.2020 allowed the petition filed by the respondent landlord and ordered eviction of the petitioners tenants on the ground of subletting by petitioner No. 1 to 6 to petitioner No. 7 to 9 while dismissing the petition on the ground of non payment of rent. Appeal filed by the petitioners was dismissed vide judgment dated 26.10.2021 while cross objections filed by the respondent landlord were accepted and eviction of the petitioners ordered on the ground of non payment of rent with the direction to hand over vacant possession of the premises within two months from the passing of the judgment failing which the respondent landlord was held entitled to take legal recourse through a court of law.

[4] Challenge in CR No. 263 of 2022 is to order dated 26.10.2021 whereby application filed by the landlord (respondent herein) to recover mesne profit for unauthorized occupation of the demised premises was allowed and the landlord was held entitled to recover mesne profit to the tune of Rs. 5000/- per month from the date of ejectment i.e. dated 27.01.2020.

that Shri. C.M. Chopra, learned counsel representing the petitioners is unfortunately no more but that pursuant to the judgment dated 26.10.2021 passed by the learned Appellate Authority, the petitioners-tenants vacated the shop in question and handed over peaceful and vacant possession of the shop in question to the respondent-landlord on 15.02.2022 and that although there is order of maintenance of status quo regarding possession by this Court in revision petitions (i.e. CR Nos.3495 and 3496 of 2021) filed by the petitioners, but in view of the position noted above, parties by way of mutual understanding have compromised the matter and agreed to inform this Court about the same as also of their agreement to withdraw their respective cases filed by the parties against each other in the Courts at Rohtak or in this Court regarding Shop No.3 measuring 28'.6" x 11'.2" situated at Jawahar Market, Opp. D- Park, Delhi Road, Rohtak. Learned Counsel for the respondent in support of the aforementioned submission has produced photocopy of agreement-cum-acknowledgement dated 15.02.2022 arrived at between the parties. The same duly signed by learned counsel is taken on record. Learned counsel states that no dues towards the rent and mesne profit granted vide impugned order dated 26.10.2021 (subject matter of CR No.263 of 2022) are pending. Reference has been made to para No.6 of the agreement dated 15.02.2022 and the same reads as under:-

“That there is no pending rent and electricity charges against the second party as on the date of executing agreement-cum-acknowledgement”.

Learned counsel for the respondent states that in view thereof,

the instant petition(s) be disposed of as having become infructuous.

[6] Although, in the circumstances, on account of death of learned counsel representing the petitioners, notice is ordinarily required to be issued to the petitioners to engage another counsel for representing them in the proceedings initiated by them but in view of the duly signed photocopy of the agreement-cum-acknowledgement dated 15.02.2022 having been produced by learned counsel for the respondent as also statement at the bar made by him reiterating the compromise, notice to the petitioners is dispensed with and in view of the agreement-cum-acknowledgement so taken on record, the respective petitions are disposed of as having become infructuous in view of vacant possession of the premises in question having been handed over to the respondent. However, copy of this order to be sent to the petitioners by the Registry through registered post against registered covers to be furnished by the respondent within one week from today. Liberty is granted to the petitioners to move an application for revival of the respective petitions in the eventuality of cause of action surviving. Petitions disposed of as above.

24.01.2023

'Amit'

(B.S. Walia)
Judge

Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No