



2024:DHC:6872



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of order: 3<sup>rd</sup> September, 2024.**  
+ **C.R.P. 220/2023**  
**TEJINDER SINGH ( DECD) THR LRS AND ANR** .....Petitioners  
Through: Appearance not given.  
versus  
**KULINDER SINGH SAHNI (DECD) THR LR** .....Respondent  
Through: Ms. Deepika V. Marwaha, Senior  
Advocate with Mr. Tejinder Bakshi,  
Ms. Worthing Kasar and Mr. Tanishq  
Sharma, Advocates.

**CORAM:**  
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

**CM APPL. 41646/2023 (Seeking condonation of delay in re-filing the petition)**

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the petitioners seeking condonation of delay in re-filing the appeal.
2. For the sufficient cause being shown in the application, the same is allowed and the delay of 35 days, in re-filing the appeal, is condoned.
3. Accordingly, the application stands disposed of.



2024:DHC:6872



**C.R.P. 220/2023**

1. The instant revision petition under Section 115 of the Code of Civil Procedure, 1908 (hereinafter “CPC”) has been filed on behalf of the petitioners against the order dated 16<sup>th</sup> December, 2022 passed by the learned Additional District Judge-03, South East District, Saket, New Delhi in CS No. 1821/18 titled as “***Shri Tejinder Singh & Anr vs. Shri Kulinder Singh Sahni***” wherein the application filed by the petitioners/plaintiffs under Order XII Rule 6 of the CPC seeking judgment on admissions was dismissed.

2. Brief facts of the matter that led to the filing of the instant revision petition are as under:

(i) It is stated that late Sh. Kulinder Singh Sahni (tenant/defendant/respondent) was inducted as a tenant in the first and second floors of the property bearing no. A-246, Defence Colony, New Delhi-110024, (“tenanted premises” hereinafter) @ Rs. 2,925/- per month, which is owned by late Sh. Tejinder Singh (plaintiff no.1/petitioner no.1), and late Sh. Jaspal Singh. It is pertinent to mention herein that late Sh. Tejinder Singh, i.e., petitioner no.1, and late Sh. Kulinder Singh Sahni, i.e., the respondent, are being represented through their respective legal heirs before this Court.

(ii) Subsequently, a notice dated 21<sup>st</sup> May, 2015 was issued to the respondent, thereby, increasing the rent by 10%, i.e., Rs. 3,217.50/-



2024:DHC:6872



per month, under the provisions of Section 6A of the Delhi Rent Control Act, 1958 (“the Act” hereinafter). Thereafter, the petitioners again increased the rent by 10% i.e., Rs. 3,539.25/- per month, w.e.f. 1<sup>st</sup> July, 2018 *vide* notice dated 19<sup>th</sup> March, 2018.

(iii) Pursuant to the aforesaid, the petitioners issued a notice of termination of tenancy dated 2<sup>nd</sup> August, 2018 to the respondent asking him to vacate the tenanted premises stating that since the rent is now more than Rs. 3,500/- per month, the tenancy was not protected under the provisions of the Act.

(iv) As the respondent failed to vacate the tenanted premises, a civil suit bearing CS DJ No. 1821/18 was instituted by late Sh. Tejinder Singh (plaintiff no. 1/petitioner no.1) and Smt. Jasbir Kaur Anand, W/o late Sh. Jaspal Singh (plaintiff no. 2/petitioner no. 2) seeking vacation of the said premises, possession and recovery of damages against the respondent. In the said suit, the respondent filed his written statement.

(v) Pursuant to the above, an application under Order XII Rule 6 read with Section 151 of the CPC was filed by the petitioners in the above said suit, thereby, seeking a judgment on account of the admissions made by the respondent in his written statement with respect to the first floor of the suit property.



(vi) Learned Trial Court vide order dated 16<sup>th</sup> December, 2022 (“impugned order” hereinafter), dismissed the aforesaid application of the petitioners.

(vii) Being aggrieved of the aforesaid impugned order, the instant civil revision petition has been filed seeking setting aside of the same.

3. Learned counsel appearing on behalf of the petitioners submitted that the learned Trial Court erred in passing the impugned order as it failed to take into consideration the specific admissions made by the respondents in his written statement, and thus, the impugned order is liable to be set aside.

4. It is submitted that the respondent was inducted as a tenant whereby the first and second floor of the aforesaid premises was occupied by him for which the rent was fixed @Rs. 2,925/- which was subsequently enhanced. It is further submitted that the respondent filed his written statement wherein he admitted to the tenancy *qua* the first floor of the aforementioned premises and in view of the same, the petitioners filed an application under Order XII Rule 6 of the CPC seeking judgment on account of the said admission.

5. It is submitted that the respondent duly admitted in his written statement that a notice dated 21<sup>st</sup> May, 2015, issued by the petitioners, was served upon him by virtue of which the rent of Rs. 2,925/- per month was enhanced by 10%, i.e., a monthly rent @ Rs. 3,217.50/-. It is further submitted that after passing of another three years, a notice dated 19<sup>th</sup> March, 2018 was issued to the respondent for enhancement of the rent by



2024:DHC:6872



10% i.e., Rs. 3,539.25/- per month, w.e.f. 1<sup>st</sup> July, 2018 and the same was also admitted by the respondent in his written statement.

6. It is submitted that as the enhancement of the rent reached to an amount which was more than Rs. 3,500/- per month, the tenancy was no longer protected under the provisions of the Act. In light of the same, a notice dated 2<sup>nd</sup> August, 2018 terminating the tenancy and for vacation of the tenanted premises was issued to the respondent.

7. It is submitted that the receipt of the aforesaid notice was also duly admitted by the respondent in his written statement and as the respondent failed to vacate the tenanted premises, the possession of the same became illegal and unauthorised w.e.f. 1<sup>st</sup> September, 2018.

8. It is submitted that learned Trial Court erred in appreciating that the respondent categorically admitted to the tenancy, rent and the receipts of the aforementioned notices with respect to the first floor of the tenanted premises in his written statement.

9. It is submitted that with respect to the second floor of the tenanted premises, the respondent falsely alleged that the same was purchased by him from its original owner, i.e., Smt. Viranwali Anand, mother of petitioner no.1 and late Sh. Jaspal Singh i.e., the husband of petitioner no. 2 herein, along with roof rights, by way of forged and fabricated agreement of sale dated 22<sup>nd</sup> August, 1989 as the mother of the petitioner no. 1 never entered into the said sale agreement. It is further submitted that a civil suit bearing



2024:DHC:6872



CS no. 273/17, for specific performance, with respect to the second floor has been filed by the respondent against the petitioners herein and the same is pending for adjudication.

10. It is submitted that upon a bare reading of the written statement filed by the respondent, it is made out that the tenancy with regard to the first floor has been duly admitted by him therein. Further, the respondent has admitted that the petitioners are the landlords with respect to the first floor of the property in dispute and the initial rent @ Rs. 2,925/- was enhanced by way of notices dated 21<sup>st</sup> May, 2015 and 19<sup>th</sup> March, 2018, respectively.

11. It is further submitted that the learned Trial Court erred in holding that there exist triable issues merely because the petitioners had admitted in their replication that a suit for specific performance of the agreement to sell dated 22<sup>nd</sup> August, 1989 in respect of second floor of the property in question is under adjudication.

12. It is submitted that the learned Trial Court failed to appreciate that the petitioners have not admitted that the second floor of the aforesaid premises is owned by the respondent in view of the agreement to sell dated 22<sup>nd</sup> August, 1989; rather they have disputed the same as the said suit is filed on false pretext.

13. It is submitted that the learned Trial Court failed to take into consideration that till the time the abovesaid suit is *sub-judice*, there is no legal basis of such averment of segregation of the rental amount of both the



2024:DHC:6872



floors, and the contention that the petitioners are not entitled to claim the possession of the tenanted premises is erroneous.

14. It is submitted that in view of the abovesaid submissions, the learned Trial Court failed to consider the admissions of the respondent in his written statement as well as the contentions made in the application under Order XII Rule 6 of the CPC and in support of his arguments, the learned counsel relied upon paragraphs no. 24, 30 and 31 of the judgment passed by this Court in ***Deepak Nijhawan v. R.N. Abrol*, 2015 SCC OnLine Del 14321**.

15. It is submitted that in the aforesaid judgment it has been categorically held that a tenant is liable to pay the revised rent after enhancement of 10% in terms of Section 6A of the Act and the same cannot be ignored or rendered ineffective as it is legally enforceable. It has been further held that Section 8 of the Act requires the intention of the landlord seeking eviction of the tenant, to be duly communicated to him by way of a notice. Furthermore, the object of such notice is to be liberally construed in order to give sufficient time to the tenant to vacate the tenanted premises.

16. It is submitted that in so far as the scope of Order XII Rule 6 of the CPC is concerned, in paragraph no. 10 of ***Raveesh Chand Jain v. Raj Rani Jain*, (2015) 8 SCC 428**, the Hon'ble Supreme Court stated that the aforementioned provision confers wide discretion on the Courts to pass a judgment at any stage of the suit on the basis of admission of facts made either orally or in pleadings without further adjudicating other issues of the



2024:DHC:6872



case. Moreover, it has been stated that the principle purpose behind Order XII Rule 6 of the CPC is expeditious disposal at any stage of the suit.

17. Therefore, in view of the foregoing submissions, learned counsel appearing on behalf of the petitioners prayed that the impugned order may be set aside and the suit may be decreed in terms of the application under Order XII Rule 6 of the CPC.

18. *Per Contra*, Ms. Deepika V. Marwaha, learned senior counsel appearing on behalf of the respondents vehemently opposed the instant revision petition and submitted that the learned Trial Court passed a detailed and reasoned order after considering the entirety of the matters, thus, the instant petition is bereft of any merits and is liable to be dismissed.

19. It is submitted that there is no illegality or error in the impugned order which merits interference of this Court as this Court has very limited power to interfere in the order passed by the learned Trial Court under its revisional jurisdiction.

20. Learned senior counsel appearing on behalf of the respondents submitted that there is no explicit or unequivocal admission on behalf of the respondents at the strength of which the present petition has been filed. Hence, the instant petition is not maintainable.

21. It is submitted that while adjudicating the petitioners' application under Order XII Rule 6 of the CPC, the learned Trial Court correctly held



that the suit has certain issues which are of triable nature, and hence, the dispute in the instant matter cannot be decided without calling for evidence from both the sides.

22. It is further submitted that there is no merit in the contention of the petitioners that the enhancement/eviction notices were admitted, as the said notices are contrary to the earlier notices dated 15<sup>th</sup> November, 1995 and 22<sup>nd</sup> November, 1995 wherein the tenancy of the respondent was only with respect to the first floor.

23. It is submitted that the suit for possession in respect of the alleged tenanted premises is not maintainable in light of an agreement to sell dated 22<sup>nd</sup> August, 1989 *qua* the second floor with roof rights which was executed between the respondent and its original owner i.e., late Smt. Viranwali Anand, mother of petitioner no.1 and late Sh. Jaspal Singh, husband of the petitioner no. 2 herein.

24. It is also submitted that the owner of the second floor of the premises issued receipt cum possession letter in favour of the respondent, i.e., late Sh. Kulinder Singh Sahni, after receiving the entire sale consideration of about Rs. 1,20,000/- in full and final settlement. Moreover, the adjudication with respect to the same is still pending.

25. It is submitted that there is no dispute with regard to the receiving of the aforementioned notices, however, it is wrong to suggest that the notice dated 19<sup>th</sup> March, 2018, by virtue of which the rent was enhanced to Rs.



2024:DHC:6872



3,539.25/-, was issued for both the floors as the respondent is not a tenant *qua* the second floor.

26. It is further submitted that there is no admission on the part of the respondent for the purpose of passing a decree or judgment summarily under Order XII Rule 6 of the CPC. In support of her arguments, learned senior counsel appearing on behalf of the respondents relied on paragraphs no. 11, 17, 18 and 19 of the impugned order.

27. It is submitted that learned counsel for the petitioners failed to make out any case in order to bring out any illegality in the impugned order. It is also submitted that the petitioners' case is that there is composite rent for both the floors. With regard to the same, it is submitted that if the tenancy of the first floor is admitted, the same does not *per se* disentitles the respondents to prove their case *qua* the second floor and therefore, the petitioners are not entitled to a partial decree on admission as there is no unconditional, categorical, unequivocal admission in the entire written statement.

28. Learned senior counsel appearing on behalf of the respondents submitted that the provision under Order XII Rule 6 of the CPC gives a discretionary power to the Courts and the same depends on the satisfaction of the Courts, after perusing the contents made in the plaint, in the written statement filed by the respondent and the contents made in the replication.



2024:DHC:6872



29. It is submitted that if the Court is satisfied to the extent that there is admission on the part of the respondent, then there is no need for calling the evidence or to warrant a trial in order to pass a judgment summarily, and accordingly the Court may exercise its discretionary power under Order XII Rule 6 of the CPC, however, such is not the case in the instant matter. For strengthening her arguments, reliance on paragraphs no. 15, 23, 24, 26 and 27 of a judgment passed by the Hon'ble Supreme Court in the case of ***Karan Kapoor v. Madhuri Kumar, (2022) 10 SCC 496*** has been placed.

30. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be dismissed accordingly.

31. Heard learned counsel appearing on behalf of the parties and perused the documents available on record.

32. It is contended by the learned counsel appearing on behalf of the petitioners that the provision under Order XII Rule 6 of the CPC grants the power to the Courts to pass a judgment or decree at any stage of the suit, after taking into consideration the admission of a party made either orally or in their pleadings or otherwise. The said rule empowers the Courts to pass such judgment or decree without waiting for further adjudication of issues in the matter if it deems such admission to be legal and proper.

33. In the case before the learned Trial Court, the rent of the tenanted premises was enhanced by way of sending two notices and after enhancement of the rent, it became more than Rs. 3500/-, which has not



2024:DHC:6872



been denied but admitted by the respondent in his written statement. In view of the said circumstance, the petitioners moved the application under Order XII Rule 6 of the CPC for passing the decree/judgment which was erroneously rejected by the learned Trial Court and the same is contrary to the facts as well as the law.

34. In rival submissions, learned senior counsel appearing on behalf of the respondents denied the aforesaid contentions and submitted that there is no admission on the part of the respondent, i.e., late Sh. Kulinder Singh Sahni, in his written statement, regarding the rent of the first floor of the abovementioned premises. She further submitted that the respondent is the rightful owner of the second floor of the tenanted premises in terms of the agreement to sell dated 22<sup>nd</sup> August, 1989 and the notices issued for enhancing the compensation is in fact contrary to the same. Moreover, the notices were issued for both the floors, i.e., the first floor and the second floor, and were comprehended as one common notice, hence, the rent cannot be segregated from the first and second floor and pursuant to this, it is not admitted that the rent of the first floor is more than Rs. 3,539.25/-. It has been contended that the learned Trial Court, after meticulously considering the facts of the case, rightly rejected the application.

35. Hence, the limited issue before this Court is to decide whether the contents of the written statement of the respondent contains any admission on his part, on the basis of which, a judgment can be passed under Order XII Rule 6 of the CPC.



36. For proper adjudication of the instant case, the relevant portion of the impugned order is quoted hereinbelow:

*“17. In my thoughtful consideration, the present application is not maintainable even in respect of first floor of the property in question in as much as the averments of the plaintiffs itself are to the effect that the tenancy was in respect of first floor and second floor of the property in question at monthly rent of Rs.2925/-, which was claimed to be enhanced by 10% under Section 6 A of DRC Act vide notice dated 21.05.2015 to Rs.3217.50/-, which was further enhanced vide notice dated 19.03.2018 to Rs.3539.25/- per month. But since this rent is purportedly for both the floors of the property in question, the plaintiffs now cannot claim to be entitled to judgment on admission in respect of the first floor. In the light of the admitted position in the replication that a suit for specific performance of the agreement to sell dated 22.08.1989 in respect of second floor of the property in question is under adjudication, though plaintiffs has claimed the said suit to be false and mala fide, but till the time, the said suit is sub-judice and there is no such averment of segregation of the rental amount of both the floors, plaintiffs are not entitled to claim possession of the said property by way of the present application. More so, Ld. counsel for the defendant, during arguments also re-ferred to the earlier notices issued on behalf of the legal heirs of Smt. Viranwali Anand by their advocate Sh. P.S. Bindra on 15.11.1995 and Sh. Soma Sadhu Advocate on 22.11.1995, where it is clearly reflected that the tenancy of the defendant was claimed to be of the first floor of the property in question. It is, thus, limpid that these issues cannot be decided summarily without calling for the evidence from both the sides.*

*18. Further, in regard to plea of the enhancement of the rent, there is a categorical stand of the defendant that defendant was not liable to pay the rent at the rate of Rs.3217.50/- with effect*



from 01.07.2015 to 30.06.2018 and Rs.3539.25/- with effect from 01.07.2018 to 31.08.2018 and the order dated 01.08.2018 of Ld. Rent Controller clearly states that the deposit of rent is without prejudice to the rights of the defendant. Further, the notices seeking enhancement of the rent demonstrate that the tenancy was claimed in respect of the first floor and the second floor of the property in question, which is under challenge, as noted above, thus the validity of these notices also become a matter of trial. Even if, it is assumed that the monthly rent was enhanced as pleaded on behalf of the plaintiffs, still, as noted herein above, in the absence of any averment or material demonstrating segregation of rent of the first floor and second floor property in question, it would not be expedient to grant the indulgence of judgment on admission in respect of the first floor of the property in question.

19. Ld. counsel for the plaintiff, during arguments, alluded to the order of High Court of Delhi in **Kamal Saroj Mahajan Vs. Charanjeet Lal Mehra & Ors. (Supra)**, to assert the point of enhancement of monthly rent in the tenancy is governed by the DRC Act on service of notice under Section 6 A and consequent judgment on admission, however, the facts of the present case are on disparate lines and the issues involved herein as noted above warrant trial and leading of evidence, thus the judgment is of no help to the plaintiffs. On the contrary, the judgment relied upon by Ld. counsel for the defendant in **Karan Kapoor Vs. Madhuri Kumar (Supra)** is on the principle of judgment on admission that the said power is discretionary which should be exercised when specific, clear and categorical admission of facts or documents are on record. There is no cavil on this proposition of law.

20. In the result, the present application under Order 12 Rule 6 CPC on behalf of the plaintiffs is found to be merit less and is accordingly rejected.”



37. Upon perusal of the above, it is made out that the learned Trial Court dismissed the application of the petitioners in view of the fact that the rent enhanced by the petitioners was purportedly for both the floors, and as the respondent has disputed the title of the second floor by placing reliance on an agreement to sell dated 22<sup>nd</sup> August, 1989, the petitioners herein are not entitled to a judgment on admission with respect to the first floor as well.

38. It is further transpired that the learned Trial Court, while deciding the application in favour of the respondent, stated that a suit for specific performance *qua* the agreement to sell dated 22<sup>nd</sup> August, 1989 in respect of the second floor is pending for adjudication and in view of the same, the learned Trial Court deemed it necessary to state that the issues at hand are of triable nature and the same cannot be decided summarily without calling for evidence from both the sides. It was also observed by the learned Trial Court that the issue of validity of the enhancement notices also warrant trial and leading of evidence to determine the rights of the parties.

39. Insofar as the law is concerned, the Hon'ble Supreme Court as well as this Court has held it in a catena of judgments that a judgment/decreed under Order XII Rule 6 of the CPC can be passed only if there are clear and unequivocal admissions in the pleadings or otherwise, and in the event the Court concerned is of the opinion that there are certain defences or objections that give rise to triable issues, the same can only be decided after conducting a proper trial. It must be noted that the essential ingredients that need to be considered are that the alleged admissions must be clear,



unambiguous and unequivocal, i.e., the alleged admissions must be apparent from the face of it.

40. It is imperative to mention that the provision of Order XII Rule 6 of the CPC is an enabling provision, i.e., the same is neither mandatory, nor pre-emptory. It is the discretion of the Court concerned to exercise its power under the said provision which completely depends on the peculiar facts and circumstances of the case, and while deciding an application, the Court has to bear in mind that a judgment on admission is a judgment without trial.

41. The aforesaid discussion on the scope of Order XII Rule 6 of the CPC has also been enunciated by the Hon'ble Supreme Court in the judgment passed in ***Balraj Taneja v. Sunil Madan***, (1999) 8 SCC 396, the relevant paragraphs of which are as under:

*“...23. Under this rule, the court can, at an interlocutory stage of the proceedings, pass a judgment on the basis of admissions made by the defendant. But before the court can act upon the admission, it has to be shown that the admission is unequivocal, clear and positive. This rule empowers the court to pass judgment and decree in respect of admitted claims pending adjudication of the disputed claims in the suit.*

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*29. As pointed out earlier, the court has not to act blindly upon the admission of a fact made by the defendant in his written statement nor should the court proceed to pass judgment blindly merely because a written statement has not been filed by the defendant traversing the facts set out by the plaintiff in the plaint filed in the court. In a case, specially where a written*



*statement has not been filed by the defendant, the court should be a little cautious in proceeding under Order 8 Rule 10 CPC. Before passing the judgment against the defendant it must see to it that even if the facts set out in the plaint are treated to have been admitted, a judgment could possibly be passed in favour of the plaintiff without requiring him to prove any fact mentioned in the plaint. It is a matter of the court's satisfaction and, therefore, only on being satisfied that there is no fact which need be proved on account of deemed admission, the court can conveniently pass a judgment against the defendant who has not filed the written statement. But if the plaint itself indicates that there are disputed questions of fact involved in the case regarding which two different versions are set out in the plaint itself, it would not be safe for the court to pass a judgment without requiring the plaintiff to prove the facts so as to settle the factual controversy. Such a case would be covered by the expression "the court may, in its discretion, require any such fact to be proved" used in sub-rule (2) of Rule 5 of Order 8, or the expression "may make such order in relation to the suit as it thinks fit" used in Rule 10 of Order 8...."*

42. As pointed out earlier, the Court cannot act blindly upon the admission of a fact made by the defendant in his written statement nor should the Court proceed to pass judgment blindly merely because a written statement has not been filed by the defendant traversing the facts set out by the plaintiff in the plaint filed in the Court. In a case specially where a written statement has not been filed by the defendant, the Court should be a little cautious in proceeding under Order VIII Rule 10 CPC. Before passing the judgment against the defendant it must see to it that even if the facts set out in the plaint are treated to have been admitted, a judgment could possibly be passed in favour of the plaintiff without requiring him to prove any fact



mentioned in the plaint. It is a matter of the Court's satisfaction and, therefore, only on being satisfied that there is no fact which need be proved on account of deemed admission; the Court can conveniently pass a judgment against the defendant who has not filed the written statement. But if the plaint itself indicates that there are disputed questions of fact involved in the case regarding which two different versions are set out in the plaint itself, it would not be safe for the Court to pass a judgment without requiring the plaintiff to prove the facts so as to settle the factual controversy. Such a case would be covered by the expression "*the court may, in its discretion, require any such fact to be proved*" used in sub-rule (2) of Rule 5 of Order VIII, or the expression "*may make such order in relation to the suit as it thinks fit*" used in Rule 10 of Order VIII...."

43. Adverting to the facts of the instant case, this Court has examined the impugned order, the application of the petitioners filed under Order XII Rule 6 of the CPC, reply filed by the respondent to the said application, and the notices sent by the petitioners for enhancement of rent.

44. It is observed that in the impugned order, the learned Trial Court rightly determined that the application for judgment on admission was not maintainable with respect to the first floor of the property in question. The learned Trial Court carefully considered the petitioners' averments, which clearly indicated that the tenancy covered both the first and second floors of the property at a monthly rent of Rs. 2,925/-. This rent was purportedly enhanced under Section 6A of the Act, first to Rs. 3,217.50/- per month via a



2024:DHC:6872



notice dated 21<sup>st</sup> May, 2015 and subsequently to Rs. 3,539.25/- per month through another notice dated 19<sup>th</sup> March, 2018.

45. However, upon a *prima facie* perusal of the said notices, it is evident that the rent was enhanced for both the floors, and the petitioners have clearly failed to provide any segregation of the rent between the first and second floors. Therefore, the learned Trial Court found that it would be erroneous to pass a judgment on admission in favour of the petitioners solely on the basis of the averments made *qua* the first floor whereas the rent was enhanced for both the floors.

46. The learned Court below took into account that a separate suit for specific performance of an agreement to sell *qua* the second floor of the property was pending adjudication. Despite the petitioners' contention that the aforesaid suit was false and *mala fide*, the learned Trial Court acknowledged that the matter was *sub-judice*. As a result, the dispute over the second floor further complicated the issue, and the learned Trial Court was of the opinion that it would be inappropriate to pass a judgment on admission at this stage, for the first floor in isolation.

47. The learned Trial Court also noted that the petitioners had not clarified how the rent was to be apportioned between the two floors, making it difficult to pass any judgment without further evidence. Additionally, during arguments, the respondent herein, i.e., the defendant before the learned Trial Court referred to earlier notices (issued in the year 1995)



2024:DHC:6872



issued by the legal heirs of late Smt. Viranwali Anand, which indicated that the tenancy was related to the first floor only, thereby, adding another layer of complexity which cannot be decided summarily under Order XII Rule 6 of the CPC.

48. In relation to the rent enhancement, the respondent categorically denied any liability to pay the increased rent amounts and the learned Trial Court referred to an order of the Rent Controller dated 1<sup>st</sup> August, 2018, which stated that the rent deposited by the respondent was made without prejudice to his rights. Furthermore, it is noted that the notices seeking enhancement of the rent covered both the first and second floors, and since the second floor's tenancy was under challenge, the validity of the notices themselves became a matter for trial. Even if the rent enhancement was assumed to be valid as per the petitioners' assertions, the lack of any evidence regarding the segregation of the rental amounts for the two floors meant that the judgment on admission for the first floor could not be granted while exercising discretion under the aforementioned provision.

49. The above said observations of this Court are based on the premise that even though the petitioners are merely seeking a judgment *qua* the first floor of the property in question stating that the respondent has admitted to the tenancy *qua* the first floor, the same cannot be accepted since the basis of the admission relies upon the enhancement notices wherein the rent was stated for both the floors and the said notices contained the description of both the floors as well.



50. In conclusion, this Court is of the considered view that the learned Trial Court rightly exercised its discretion in determining that there were triable issues requiring evidence from both sides, and therefore, a summary decision could not be made. Consequently, the learned Trial Court correctly dismissed the application filed under Order XII Rule 6 of the CPC.

51. After considering the findings of the learned Trial Court in the foregoing paragraphs and after perusing the notices which were sent by the petitioners to the respondent, it is made out that the notices were sent for enhancement of rent for both the floors and there is no specific mentioning that the rent was enhanced *qua* the first floor only. Therefore, this Court finds force in the arguments made by learned senior counsel appearing on behalf of the respondents that there is no admission by the respondent, i.e. late Shri Kulinder Singh Sahni, in his written statement.

52. Further, after perusing the reply filed by the respondent to the application under Order XII Rule 6 of the CPC, it is evident that the rent was enhanced in composite manner, i.e., with respect to both the floors of the aforementioned premises and thus, the said notices cannot be considered in a segregated manner, as in order to prove the same, it warrants trial and leading of evidence.

53. Although, the aim of Order XII Rule 6 of the CPC is expeditious disposal of a suit, however, it must not be dealt with in a casual manner; rather, proper scrutiny must be given to the alleged admissions and



2024:DHC:6872



contentions advanced thereto. Further, the Court must bear in mind that a judgment on admission by the defendant under Order XII Rule 6 of the CPC is not a matter of right rather the same is a matter of discretion of the Court; no doubt such discretion has to be exercised judicially and on the basis of the facts of the case at hand.

54. As discussed in the preceding paragraphs, it is a settled position of law that while deciding an application under Order XII Rule 6 of the CPC, the Courts have the discretionary power to decide the same in accordance with the satisfaction of the said Court and on the basis of the pleadings made before it. In case the Court concerned is of the opinion that the dispute raised in the said matter is of triable nature, the same will be decided by conducting a proper trial as the intent of expeditious disposal under the aforesaid provision cannot defeat the rights of the parties.

55. Accordingly, this Court is of the view that the learned Trial Court in the instant case did not commit any error of law in deciding the application in favour of the respondent herein and it is apparent from the face of the record that there are several issues which require trial, i.e., arguments, leading of evidence, examination of witnesses and detailed discussion. Merely alleging the averments made in the written statement as admissions and seeking judgment on the basis of the same is not the established procedure of law.



2024:DHC:6872



56. With respect to the facts of the matter in hand, this Court is of the considered view that on both the counts, i.e., the facts as well as the law, this Court does not find any error or illegality in the impugned order and it is held that the petitioners have failed to make out any case which merits the interference of this Court under its revisional jurisdiction as it is a settled position of law that this Court has very limited power to interfere in the impugned order under Section 115 of the CPC.

57. Taking into consideration the aforesaid discussions, the impugned order dated 16<sup>th</sup> December, 2022 passed by the learned Additional District Judge-03, South East District, Saket, New Delhi in CS DJ No. 1821/18 is upheld.

58. In view of the above facts and circumstances, the instant petition is dismissed along with pending applications, if any.

59. The order be uploaded on the website forthwith.

**CHANDRA DHARI SINGH, J**

**SEPTEMBER 3, 2024**

**gs/sm/ryp**

*Click here to check corrigendum, if any*