



2025:DHC:11746-DB



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment reserved on: 09.12.2025

Judgment pronounced on: 23.12.2025

Judgment uploaded on: 23.12.2025

+

RFA(OS) 53/2012

ATMA RAM BUILDERS PVT LTD

.....Appellant

Through: Mr Ramesh Singh, Senior
Advocate with Mr. Amit Sethi,
Advocate.

versus

EMBASSY RESTAURANT & ANR

.....Respondents

Through: Mr. Sonal Anand, Mr. Aayush
Sai & Ms. Surbhi Singh,
Advocates for R-1.
Mr. T. P. Singh, Senior Central
Govt. Counsel for R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J

1. The Appellant/Plaintiff assails the correctness of the judgment dated 16.03.2012 passed in I.A. No.7775/2008 in CS(OS) No.1971/2006 [hereinafter referred to as 'Impugned Judgment'], whereby his plaint has been rejected by the learned Single Judge, while exercising the enabling power under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'].

2. For the sake of convenience, the parties shall be referred to by their status and rank in the suits, i.e., CS(OS) No.1422/2006 and 1971/2006.

Signature Not Verified

Signed By: SAVITA

PASRICHA

Signing Date: 23.12.2025 RFA(OS) 53/2012

12:59:21



2025:DHC:11746-DB



FACTUAL MATRIX:

3. In order to comprehend the issues involved in the present case, relevant facts, in brief, are required to be noticed.

I. In CS(OS) No. 1422/2006

4. The Plaintiff claims to be the owner and landlord of the premises bearing no.11-D, Atma Ram Mansion, Connaught Circle, New Delhi [hereinafter referred to as 'first suit property']. The Plaintiff rented the first suit property, measuring about 6,000 sq. ft., to the Defendant on lease with effect from 01.01.1962 at a monthly rent of Rs.820/-. It is further claimed that even today, the monthly rent payable by the Defendant to the Plaintiff is approximately Rs.1,060/-.

II. In CS(OS) No.1971/2006

5. In the second suit, Plaintiff claims to be the owner of the building situated at Plot No.3, D Block, Connaught Place, New Delhi [hereinafter referred to as 'second suit property']. The Plaintiff rented the second suit property, consisting of the ground floor and the mezzanine floor, to the Defendant in the year 1947. The area occupied by the Defendant is approximately 2500 sq.ft. The monthly rent for the premises is approximately Rs.312.69 per month. This is the last agreed rent with respect to the second suit property. The Plaintiff filed a suit for recovery of rent at the market rate @ Rs. 10 lakhs per month.

6. It is claimed by Defendants that Sections 4, 6 and 9 of the Delhi Rent Control Act, 1958 [hereinafter referred to as the 'DRC Act']

Signature Not Verified

Signed By: SAVITA

PASRICHA

Signing Date: 23.12.2024
12:59:21

FA(OS) 53/2012

Page 2 of 15



were declared unconstitutional and consequently struck down by a Division Bench of this Court in ***Raghunandan Saran Ashok Saran (HUF) v. Union of India***¹.

7. The Plaintiff, while asserting entitlement to market rent, sought the following reliefs:

“28. That the plaintiff prays for the following reliefs:-

- a) A decree for Rs. 40,00,000/- being arrears of rent for the period from 1-6-2006 to 30-9-2006 be passed in favour of the plaintiff and against the defendant;*
- b) A decree for the recovery of rent for the period from 1-10-2006 at the rate of Rs. 10,00,000/- p.m. till the final determination/adjudication of the controversies involved may also be passed in favour of the plaintiff and against the defendant;*
- c) A decree for Rs. 7,20,000/- as interest for the period from 1-7-2006 to 30-9-2006 on the arrears of rent of Rs. 40,00,000/ calculated at the rate of 12% p.a. may be passed in favour of the plaintiff and against the defendant and a further decree for the payment of interest at that rate from 1-10-2006 till actual payment of the amounts in facts and circumstances of the case. The plaintiff undertakes to pay additional court fee on such amounts as per the direction passed by this Hon'ble Court;*
- d) Such other relief/s which this Hon'ble Court deems fit and proper may also be passed in favour of the plaintiff and against the defendant;*
- e) Cost of the suit may also be awarded to the Plaintiff.”*

8. The plaint has been rejected by the learned Single Judge, at the threshold, on the following grounds:

- (i) The increase of rent is governed by Section 6A of the DRC Act, and non-payment thereof would entail an order of eviction, a matter falling within the exclusive jurisdiction of the Rent Controller. Consequently, the civil suit was held to be not maintainable.

¹ 2002 SCC OnLine Del 58



(ii) The bar under Section 50 of the DRC Act was construed to be wide and expansive, and on that basis, it was held that the Plaintiff could seek appropriate relief by filing a petition under the DRC Act.

CONTENTIONS OF THE PARTIES:

9. Heard learned counsel representing the parties at length and, with their able assistance, perused the paperbook along with the record of the suit.

10. Learned Senior Counsel for the Appellant/Plaintiff, while relying upon the judgment in *Raghunandan Saran (supra)*, has made the following contentions:

- i. The bar under Order VII Rule 11 of the CPC would arise only if, on a plain reading of the averments contained in the plaint, the suit is found to be barred by any law. In the present case, no such statutory bar exists, as on date, insofar as the determination as well as recovery of reasonable rent is concerned.
- ii. Section 6A of the DRC Act is only concerned with the revision of 'agreed rent', which is fundamentally different from the determination of reasonable rent.
- iii. The suit is not barred under Section 50 of the DRC Act.
- iv. Even in the absence of any statutory mechanism for regulating such a right, a fundamental/constitutional right to recover reasonable rent exists.

11. Learned Counsel for the Respondents/Defendants, while contending that the learned Single Judge has rightly rejected the plaint



under Order VII Rule 11(d) of the CPC, has made the following submissions:

i. The suit of the Plaintiff is barred under Section 50 of the DRC Act, as the determination of the rent payable by the Defendant lies in the exclusive jurisdiction of the Rent Controller.

ii. The suit of the Plaintiff is solely on the ground that the provisions of Sections 4, 6 and 9 of the DRC Act, pertaining to standard rent, have been struck down. Section 6A of the DRC Act, which deals with the revision of rent, is still maintained in the statute.

12. No other submissions have been made by the Counsel representing the parties.

ANALYSIS AND FINDINGS:

13. At the very outset, it is apposite to refer to Sections 4, 6, 6(A), 9, 15 and 50 of the DRC Act, which are extracted as under:

“4. Rent in excess of standard rent not recoverable.—(1) Except where rent is liable to periodical increase by virtue of an agreement entered into before the 1st day of January, 1939, no tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his landlord for the occupation of any premises any amount in excess of the standard rent of the premises, unless such amount is a lawful increase of the standard rent in accordance with the provisions of this Act.

xxxx

xxxx

xxxx

xxxx

6. Standard rent.—(1) Subject to the provisions of sub-section (2), “standard rent”, in relation to any premises means—

(A) in the case of residential premises—

(1) where such premises have been let out at any time before the 2nd day of June, 1944,—

(a) if the basic rent of such premises per annum does not exceed



six hundred rupees, the basic rent; or

(b) if the basic rent of such premises per annum exceeds six hundred rupees, the basic rent together with ten per cent. of such basic rent;

(2) where such premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and Ajmer-Merwara Rent Control Act, 1947 (19 of 1947), or the Delhi and Ajmer Rent Control Act, 1952 (38 of 1952),—

(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with ten per cent. of such rent;

(b) in any other case, the rent calculated on the basis of 1 [ten per cent.] per annum of the aggregate amount of the 2 [actual] cost of construction and the market price of the land comprised in the premises on the date of the commencement of the construction;

* * * *

(B) in the case of premises other than residential premises—

(1) where the premises have been let out at any time before the 2nd day of June, 1944, the basic rent of such premises together with ten per cent. of such basic rent:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words “ten per cent.”, the words “fifteen per cent.” had been substituted;

(2) where the premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and AjmerMerwara Rent Control Act, 1947 (19 of 1947) or the Delhi and Ajmer Rent Control Act, 1952 (38 of 1952),—

(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with fifteen per cent. of such rent;

(b) in any other case, the rent calculated on the basis of [ten per cent.] per annum of the aggregate amount of the [actual] cost of construction and the market price of the land comprised in the premises on the date of the commencement of the construction:



[* * * *]

(2) Notwithstanding anything contained in sub-section (1),—

(a) in the case of any premises, whether residential or not, constructed on or after the 2nd day of June, 1951, but before the 9th day of June, 1955, the annual rent calculated with reference to the rent at which the premises were let for the month of March, 1958, or if they were not so let, with reference to the rent at which they were last let out, shall be deemed to be the standard rent for a period of seven years from the date of the completion of the construction of such premises;

[* * * *]

(b) in the case of any premises, whether residential or not, constructed on or after the 9th day of June, 1955, including premises constructed after the commencement of this Act 5 [but before the commencement of the Delhi Rent Control (Amendment) Act, 1988], the annual rent calculated with reference to the rent agreed upon between the landlord and the tenant when such premises were first let out shall be deemed to be the standard rent for a period of five years from the date of such letting out.

[(c) in the case of any premises, whether residential or not, constructed on or after the commencement of the Delhi Rent Control (Amendment) Act, 1988 and to which the provisions of this Act are made applicable by virtue of clause (d) of section 3, the rent calculated on the basis of ten per cent. per annum of the aggregate amount of the actual cost of construction of the premises and the market price of the land comprised in the premises on the date of commencement of the construction, of the premises shall be deemed to be the standard rent.]

(3) For the purposes of this section, residential premises include premises let out for the purposes of a public hospital, an educational institution, a public library, reading room or an orphanage.

xxxx

xxxx

xxxx

xxxx

[6A. **Revision of rent.**—Notwithstanding anything contained in this Act, the standard rent, or, where no standard rent is fixed under the provisions of this Act in respect of any premises, the rent agreed upon between the landlord and the tenant, may be increased by ten per cent. every three years.]

xxxx

xxxx

xxxx

xxxx

9. Controller to fix standard rent, etc.—(1) The Controller shall, on an application made to him in this behalf, either by the landlord or by the tenant, in the prescribed manner, fix in respect of any premises—



(i) the standard rent referred to in section 6; or

(ii) the increase, if any, referred to in section 7.

(2) In fixing the standard rent of any premises of the lawful increase thereof, the Controller shall fix an amount which appears to him to be reasonable having regard to the provisions of section 6 or section 7 and the circumstances of the case:

[Provided that in working out the cost of construction of any premises or the market price of the land comprised in such premises for the purposes of section 6, or the cost of improvement, addition or alteration referred to in section 7, the Controller may take the assistance of any valuer approved by the Central Government in accordance with such rules as may be prescribed and the assessment shall be made by such valuer in the manner prescribed.]

(3) In fixing the standard rent of any premises part of which has been lawfully sub-let, the Controller may also fix the standard rent of the part sub-let.

(4) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth under section 6, the Controller may fix such rent as would be reasonable having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar or nearly similar premises in the locality, having regard also to the standard rent payable in respect of such premises.

(5) The standard rent shall in all cases be fixed for a tenancy of twelve months:

Provided that where any premises are let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months.

(6) In fixing the standard rent of any premises under this section, the Controller shall fix the standard rent thereof in an unfurnished state and may also determine an additional charge to be payable on account of any fittings or furniture supplied by the landlord and it shall be lawful for the landlord to recover such additional charge from the tenant.

(7) In fixing the standard rent of any premises under this section, the Controller shall specify a date from which the standard rent so fixed shall be deemed to have effect:

Provided that in no case the date so specified shall be earlier than one year prior to the date of the filing of the application for the fixation of the standard rent.

xxxx

xxxx

xxxx

xxxx



15. When a tenant can get the benefit of protection against eviction.—(1) In every proceeding of the recovery of possession of any premises on the ground specified in clause (a) of the proviso to sub-section (1) of section 14, the Controller shall, after giving the parties an opportunity of being heard, make an order directing the tenant to pay to the landlord or deposit with the Controller within one month of the date of the order, an amount calculated at the rate of rent at which it was last paid for the period for which the arrears of the rent were legally recoverable from the tenant including the period subsequent thereto up to the end of the month previous to that in which payment or deposit is made and to continue to pay or deposit, month by month, by the fifteenth of each succeeding month, a sum equivalent to the rent at that rate.

(2) If, in any proceeding for the recovery of possession of any premises on any ground other than that referred to in sub-section (1), the tenant contests the claim for eviction, the landlord may, at any stage of the proceeding, make an application to the Controller for an order on the tenant to pay to the landlord the amount of rent legally recoverable from the tenant and the Controller may, after giving the parties an opportunity of being heard, make an order in accordance with the provisions of the said sub-section.

(3) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the amount of rent payable by the tenant, the Controller shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent in relation to the premises to be paid or deposited in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be until the standard rent in relation thereto is fixed having regard to the provisions of this Act, and the amount of arrears if any, calculated on the basis of the standard rent shall be paid or deposited by the tenant within one month of the date on which the standard rent is fixed or such further time as the Controller may allow in this behalf.

(4) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the person or persons to whom the rent is payable, the Controller may direct the tenant to deposit with the Controller the amount payable by him under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, and in such a case, no person shall be entitled to withdraw the amount in deposit until the Controller decides the dispute and makes an order for payment of the same.

(5) If the Controller is satisfied that any dispute referred to in sub-section (4) has been raised by a tenant for reasons which are false or frivolous, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

(6) If a tenant makes payment or deposit as required by sub-section



(1) or sub-section (3), no order shall be made for the recovery of possession on the ground of default in the payment of rent by the tenant, but the Controller may allow such costs as he may deem fit to the landlord.

(7) If a tenant fails to make payment or deposit as required by this section, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

xxxx

xxxx

xxxx

xxxx

50. Jurisdiction of civil courts barred in respect of certain matters.—

(1) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit or proceeding in so far as it relates to the fixation of standard rent in relation to any premises to which this Act applies or to eviction of any tenant therefrom or to any other matter which the Controller is empowered by or under this Act to decide, and no injunction in respect of any action taken or to be taken by the Controller under this Act shall be granted by any civil court or other authority.

(2) If, immediately before the commencement of this Act, there is any suit or proceeding pending in any civil court for the eviction of any tenant from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955, such suit or proceeding shall, on such commencement, abate.

(3) If, in pursuance of any decree or order made by a court, any tenant has been evicted after the 16th day of August, 1958, from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955, then, notwithstanding anything contained in any other law, the Controller may, on an application made to him in this behalf by such evicted tenant within six months from the date of eviction, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.

(4) Nothing in sub-section (1) shall be construed as preventing a civil court from entertaining any suit or proceeding for the decision of any question of title to any premises to which this Act applies or any question as to the person or persons who are entitled to receive the rent of such premises.”

14. Further, it is also pertinent to refer to Order VII Rule 11 of the CPC, which regulates the enabling power of the Court to reject the plaint at the threshold. The same is extracted as under:



“11. Rejection of plaint.— *The plaint shall be rejected in the following cases:—*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

[(e) where it is not filed in duplicate;]

[(f) where the plaintiff fails to comply with the provisions of rule 9:]

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]”

15. In the present case, the plaint has been rejected under Clause (d) of Order VII Rule 11 of the CPC, which states that a plaint shall be rejected where, from the statements contained therein, the suit appears to be barred by any law. The provision requires the Court, at the threshold, to confine its examination to the averments made in the plaint and the documents relied upon by the Plaintiff, and if on a plain reading thereof the institution of the suit is hit by a statutory bar, the Court is duty-bound to reject the plaint without embarking upon a trial.

16. It is not in dispute that Sections 4, 6 and 9 of the DRC Act have already been struck down as unconstitutional. What, therefore, survives for consideration is Section 6A of the DRC Act, which



provides for a periodical increase of the standard or agreed rent. Section 6A begins with a non obstante clause and, on a plain reading thereof, envisages an increase of rent at the rate of ten per cent (10%) after every three years.

17. Further, the jurisdiction of the Rent Controller to fix the standard rent or to determine any increase therein was earlier traceable to Section 9 of the DRC Act. However, in view of the judgment rendered in ***Raghunandan Saran*** (*supra*), Section 9 no longer forms part of the statute book, and consequently, the statutory mechanism for fixation of standard rent or adjudication of increase by the Rent Controller stands denuded.

18. Furthermore, Section 15 of the DRC Act finds place in Chapter III of the DRC Act, which governs the eviction of tenants. The said provision stipulates that where eviction is sought on the ground of non-payment of rent under clause (a) of Section 14(1) of the DRC Act, the Rent Controller, after affording the parties an opportunity of hearing, shall direct the tenant to pay to the landlord or deposit with the Rent Controller, within one month from the date of the order, the amount calculated as rent. It is significant to note that Section 15 of the DRC Act does not provide for the recovery of rent as such.

19. Moreover, Section 50 of the DRC Act bars the jurisdiction of the civil court in respect of matters covered by the Act, including, *inter alia*, the fixation of standard rent.

20. The concept of standard rent is defined in Section 2(k) of the DRC Act, which is extracted as follows:



“2. Definitions.—*In this Act, unless the context otherwise requires,*

(k) “standard rent”, in relation to any premises, means the standard rent referred to in section 6 or where the standard rent has been increased under section 7, such increased rent;”

21. It is evident that Section 2(k) of the DRC Act, in turn, makes a reference to Section 6 of the DRC Act, which already stands struck down. Consequently, a statutory vacuum has arisen, leaving landlords in a state of uncertainty as to the appropriate forum for instituting proceedings, particularly in view of the fact that Section 9 of the DRC Act has also been struck down.

22. Section 6A of the DRC Act is in two parts: one dealing with cases where standard rent has been fixed, and the other addressing situations where no standard rent has been determined. In respect of both eventualities, the rent may be increased by 10% every three years.

23. However, in the absence of a statutory mechanism for computation and fixation of such rent, especially after the striking down of Section 9 of the DRC Act, the process for determining the enhanced rent remains unprovided for under the DRC Act.

24. It will be noted here that Section 9 of the DRC Act did not provide for an increase of an agreed rent as provided under section part of Section 6(A) of the DRC Act. In case of a vacuum or lack of clarity, the jurisdiction of the civil court to entertain and decide the civil dispute is plenary. The jurisdiction of the civil court under Sections 6 and 9 of the CPC is wide and expansive, as held by the Supreme Court in ***Dhulabhai and Ors. v. The State of Madhya***



Pradesh and Anr.² The relevant part of the judgment is reproduced hereunder:

“(1) Where the statute gives a finality to the orders of the special tribunals the civil courts' jurisdiction must be held to be excluded if there is adequate remedy to do what the civil courts would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.

(2) Where there is an express bar of the jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court.

Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not.

(3) Challenge to the provisions of the particular Act as ultra vires cannot be brought before tribunals constituted under that Act. Even the High Court cannot go into that question on a revision or reference from the decision of the tribunals.

(4) When a provision is already declared unconstitutional or the constitutionality of any provision is to be challenged, a suit is open. A writ of certiorari may include a direction for refund if the claim is clearly within the time prescribed by the Limitation Act but it is not a compulsory remedy to replace a suit.

(5) Where the particular Act contains no machinery for refund of tax collected in excess of constitutional limits or illegally collected a suit lies.

(6) Questions of the correctness of the assessment apart from its constitutionality are for the decision of the authorities and a civil suit does not lie if the orders of the authorities are declared to be final or there is an express prohibition in the particular Act. In

² 1968 SCC OnLine SC 40



2025:DHC:11746-DB



either case the scheme of the particular Act must be examined because it is a relevant enquiry.

(7) An exclusion of the jurisdiction of the civil court is not readily to be inferred unless the conditions above set down apply.”

25. A perusal of the prayers in the suit makes it abundantly clear that the Plaintiff has not sought eviction of the tenant. The relief claimed in these two suits is confined to the recovery of market rent, which does not fall within the jurisdiction of the Rent Controller appointed under the DRC Act. Whether the Plaintiff is entitled to market rent or only to an enhanced rent in terms of Section 6A of the DRC Act is a matter that can be determined only upon adjudication after trial. As already noted, in these circumstances, the bar under Section 50 of the DRC Act is not attracted.

CONCLUSION:

26. Keeping in view the aforesaid discussion, the present Appeal is allowed. The Impugned Judgment is hereby set aside.

27. The suit, CS(OS) No.1971/2006, filed by the Appellant/Plaintiff is restored to its original number. The parties, along with their respective counsel, are directed to appear before the learned Single Judge (Roster Bench) on 15.01.2026.

28. The present Appeal stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
DECEMBER 23, 2025/sp/shah

Signature Not Verified

Signed By: SAVITA

PASRICHA

Signing Date: 23.12.2025
12:59:21

CS(OS) 53/2012