



2026:DHC:743-DB



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

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Judgment reserved on: 14.01.2026***Judgment pronounced on: 31.01.2026******Judgment uploaded on: 31.01.2026***

+ RFA(COMM) 150/2023 and CM APPL. 36777/2023

M/S RITAS HERITAGE & ORS.Appellants

Through: Mr. Arihant Jain, Adv.

versus

SANGITA GUPTA & ANR.Respondents

Through: Mr. Rajiv Ranjan Mishra, Mr.
Saurabh, Mr. Jitender Kumar,
Ms. Suruchi Yadav, Advs.**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T****ANIL KSHETARPAL, J.:**

1. The present Appeal, preferred by the Appellants, assails the correctness of the judgment and decree dated 11.01.2023 [hereinafter referred to as 'Impugned Judgment'] passed by learned Commercial Court whereby the Commercial Court partly decreed the suit for recovery filed by the Respondents [Plaintiffs before the Commercial Court] and awarded a sum of Rs.3,90,163/- along with interest @ 6% per annum from the date of filing of the suit till realization, with costs.

2. The issue which arises for consideration in the present Appeal is whether the Commercial Court committed any error of law, perversity, or infirmity in appreciation of the pleadings and evidence on record while partly decreeing the Respondents' suit for recovery, warranting interference by this Court in exercise of appellate

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jurisdiction under Section 13 of the Commercial Courts Act, 2015 [hereinafter referred to as 'CC Act'].

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Appeal, it is necessary to briefly notice the relevant facts as they emerge from the pleadings and the record of the case.

4. The Appellants were the Defendants before the learned Commercial Court. The Respondents, who are the Plaintiffs in the suit, are the joint owners/landlords of the property bearing No. 15-A/59, built on leasehold Plot No. 59, Block No. 15-A, situated at W.E.A., Karol Bagh, New Delhi-110005 [hereinafter referred to as the 'suit property'].

5. The dispute between the parties arises out of a landlord-tenant relationship. As borne out from the record, the Respondents had let out the second and third floors of the suit property to the Appellants under an unregistered lease deed dated 12.07.2017 between the parties at a monthly rent of Rs.2,14,935/-, which was stipulated to be enhanced to Rs.2,57,922/- with effect from 01.08.2018. The Appellants had also deposited a sum of Rs.4,45,000/- as security deposit, adjustable against any damages, repairs or arrears.

6. The Respondents instituted a suit for recovery being CS (COMM) No. 73/2019 against the Appellants, seeking recovery of a sum of Rs. 10,25,030/- along with pendente lite and future interest @ 16% per annum, *inter alia*, on account of alleged unpaid rent, electricity and water dues, and expenses stated to have been incurred

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towards repairs and renovation of the suit property after the Appellants vacated the same.

7. The Appellants did not file a written statement within the prescribed period and were proceeded *ex-parte* by the Commercial Court *vide* order dated 17.09.2019. A counter-claim was also filed by the Appellants; however, the same came to be dismissed in default. An application moved by the Appellants for setting aside the *ex-parte* proceedings was also dismissed by the Commercial Court.

8. The Respondents led their evidence and examined three witnesses, namely PW-1/Mr. Ajay Gupta, PW-2/Ms. Sangita Gupta and PW-3/Mr. Sagar Gupta, who tendered their affidavits in evidence and relied upon documentary exhibits placed on record. None of the witnesses were cross-examined on behalf of the Appellants.

9. After considering the pleadings, evidence and written submissions of the parties, the Commercial Court, by the Impugned Judgment, partly allowed the suit. While rejecting the claim towards enhanced rent and restricting the claim of rent for loss of user to a period of one month, the Commercial Court allowed the claims towards electricity charges, water charges and a reduced amount towards repairs and renovation, after making appropriate deductions and adjusting the security deposit. Consequently, a decree for Rs.3,90,163/- with interest @ 6% per annum was passed in favour of the Respondents.



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CONTENTIONS OF THE PARTIES:

10. Contentions of the Appellants:

10.1 Learned counsel appearing on behalf of the Appellants assailed the Impugned Judgment on the ground that the Commercial Court erred in partly decreeing the suit despite the Respondents having failed to discharge the burden of proof in accordance with law. It was submitted that the Impugned Judgment suffers from errors apparent on the face of the record, improper appreciation of evidence, and grant of reliefs which were neither legally sustainable nor supported by cogent material.

10.2 It was contended that the Commercial Court gravely erred in allowing the Respondents' claim towards electricity charges. It was submitted that the electricity bills relied upon by the Respondents did not pertain exclusively to the subject property, i.e., the second and third floors of the suit property. It was argued that the Appellants were not tenants of the entire building and, in the absence of any floor-wise bifurcation or meter-wise segregation, liability could not have been fastened upon the Appellants. It was further submitted that some of the bills related to periods beyond the Appellants' occupation, rendering the Impugned Judgment legally unsustainable.

10.3 It was further submitted that the Commercial Court similarly erred in allowing the claim towards water charges. It was argued that the water bills relied upon by the Respondents did not correspond exclusively to the period of the Appellants' tenancy and were not supported by any evidence demonstrating consumption attributable



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solely to the Appellants. In the absence of proof of exclusive liability or proportionate assessment, it was submitted that the Respondents were not entitled to recover the said amounts.

10.4 Assailing the award of damages towards repairs and renovation, it was contended that the Respondents failed to establish that the alleged expenses were incurred on account of any damage caused by the Appellants. It was submitted that several invoices relied upon were either inflated, unrelated to the alleged condition of the tenanted premises or pertained to periods after the Appellants had vacated the suit property. It was argued that despite noticing deficiencies in the Respondents' evidence, the Commercial Court arbitrarily allowed a reduced amount without any clear evidentiary or legal basis.

10.5 It was further contended that the Commercial Court erred in awarding one month's rent towards loss of user. It was submitted that once the Commercial Court rejected the Respondents' claim for enhanced rent and restricted the period of alleged loss, there was no justification for awarding even one month's rent in the absence of any evidence regarding the date of reletting or proof of actual loss suffered by the Respondents.

10.6 Learned counsel also assailed the findings of the Commercial Court concerning the adjustment of the security deposit of Rs. 4,45,000/-. It was submitted that although a cheque towards refund of the security deposit was admittedly issued by the Respondents, the Commercial Court failed to draw appropriate legal inferences from such conduct. It was argued that the issuance of the cheque demonstrated that no subsisting claim towards damages or repairs

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survived at the relevant time, and the subsequent stoppage of payment could not retrospectively validate claims which were otherwise unsupported by evidence.

10.7 It was contended that the Impugned Judgment suffers from internal inconsistencies and contradictions, particularly with regard to the findings on the date of vacation of the premises, inspection of the property, and assessment of alleged damages. It was submitted that these inconsistencies, evident from the Respondents' own documents and pleadings, undermine the reliability of the claims accepted by the Commercial Court.

11. Contentions of the Respondents:

11.1 *Per contra*, learned counsel appearing on behalf of the Respondents supported the Impugned Judgment and submitted that no interference is warranted in the present Appeal. It was contended that the Appellants were proceeded *ex-parte* before the Commercial Court and failed to file a written statement or lead any evidence in rebuttal. Consequently, the evidence adduced by the Respondents remained unrebutted and was rightly relied upon by the Commercial Court.

11.2 It was submitted that the Respondents duly proved their claims through oral and documentary evidence, including electricity bills, water bills, invoices for repairs and renovation, and photographs depicting the condition of the subject property after the Appellants vacated the same. It was argued that in the absence of cross-examination of the Respondents' witnesses, the Appellants cannot be permitted to assail the factual findings recorded by the Commercial



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Court in Appeal.

11.3 With regard to electricity and water charges, it was contended that the Appellants were contractually liable to pay the same during the subsistence of the tenancy and until peaceful handover of the tenanted premises. It was submitted that the Commercial Court carefully scrutinized the bills on record, excluded inadmissible periods, and allowed the claims only to the extent found justified.

11.4 In relation to repairs and renovation, it was submitted that the Commercial Court took a balanced and reasonable approach by disallowing several claims and granting only a reduced amount based on the material placed on record. It was contended that the assessment made by the Commercial Court was a discretionary exercise based on appreciation of evidence and does not call for interference in appellate jurisdiction.

11.5 It was further submitted that the Commercial Court rightly adjusted the security deposit while computing the decretal amount and awarded interest at a modest rate of 6% per annum. It was argued that the Impugned Judgment reflects due application of mind and falls well within the limited scope of interference under Section 13 of the CC Act.

ISSUES FOR DETERMINATION

12. The primary issues for determination in this Appeal are:

a. Whether the Commercial Court was justified in rejecting the Respondents' claim for enhanced rent for the period August to

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October 2018;

- b. Whether the grant of one month's rent towards loss of user after vacation of the suit property is sustainable;
- c. Whether the Respondents' claims towards electricity and water charges were correctly allowed;
- d. Whether the Respondents proved the expenditure claimed towards repairs and renovation, and whether the assessment made by the Commercial Court warrants interference; and
- e. Whether the adjustment of the security deposit and computation of the decretal amount suffers from any infirmity.

ANALYSIS & FINDINGS

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record. At the outset, it is necessary to note that the scope of interference by this Court in an appeal under Section 13 of the CC Act is limited. Unless the findings recorded by the Commercial Court are shown to be perverse, contrary to the record, based on no evidence, or suffering from a patent error of law, appellate interference is not warranted merely because another view may be possible.

14. It is also undisputed that the Appellants neither filed a written statement nor cross-examined any of the witnesses examined on behalf of the Respondents before the Commercial Court. Consequently, the evidence led by the Respondents remained un rebutted. However, as rightly observed by the Commercial Court

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itself, even unrebutted evidence must withstand judicial scrutiny and cannot be accepted mechanically if it suffers from internal inconsistencies or is not supported by the surrounding circumstances.

15. In the above backdrop, the issues framed in paragraph no.12 are taken up for consideration seriatim.

Issue No. (a): Claim for Enhanced Rent (August 2018 to October 2018)

16. At the outset, it would be apposite to reproduce the relevant portion of the said lease deed dated 12.07.2017, which reads as under:

“

AND whereas the Lessors have agreed to give the said property entire Second Floor and Third Floor, on rent agreed to the same on rent at a monthly rent of Rs. 2,14,935/- (Rupees Two lac fourteen thousand nine hundred thirty-five only) till 01.08.2018. The rent shall increase @20% from 2,57,922/- (Rupees Two lac fifty seven nine hundred twenty-two only) Exclusive of electricity, water and maintenance charges.

NOW THIS LEASE DEED WITNESSETH AS UNDER :-

1) That the Lessors have given the said property on rent and the Lessees have taken the same on rent at a monthly rent of Rs. 214935/-

(Rupees Two lac fourteen thousand nine hundred thirty-five only)

for the period of two years and after the expiry one year the rent shall be increase@ 20% for two and three year, i.e monthly rent of the two to three years shall be Rs. 257922/- (Rupees Two lac fifty seven nine hundred twenty-two only) Excluding the electricity, water and maintenance charges.

2) That the Lessors have handed over the physical vacant possession of the said property to the Lessee, on the execution of this Lease Deed.

3) That the lessees shall pay the said monthly rent to the Lessors by 7th of each English Calendar month, in advance. The Lessees shall pay the PDC for first year to the Lessors & after 6 months PDC in advance.

4) That the Lessees shall pay the electricity and water charges as per consumption alongwith maintenance charges to the concerned authorities/Lessors. The Lift will be maintain by the Lessees and all the expenses to run the lift will be borne by the Lessees.

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5) That the Lessees have seen before occupying the said property that all the sanitary, glass fittings (front side) and electric fittings and fixtures are in good working condition and is satisfied that nothing is broken or missing and the Lessees on vacating the demised property shall restore the, in the same condition, subject to normal wear and tear.

6) That the Lessees shall not sub-let, assign or part with the possession of the aforesaid rented property, in whole or in part, under any circumstances to any third party. However if the Lessees want to change the name of the firm or want to make (P) Ltd. Firm in the family only then the Lessors shall have no objection to continue with the Lessees.

7) That the Lessee shall use the said property as per rules and regulations of the DDA/MCD or any other concerned authority & should not carry any illegal activities in the premises.

8) That the Lessees shall comply with all the rules and regulations of the local authorities.

9) That the Lessees shall always have a right to use the terrace for maintaining water tank, generator, lift and can also use the terrace for drying clothes. The Lessee shall maintain the terrace properly and keep the terrace neat and clean at all times, failing which the right to use the terrace shall be denied upon inspection by the lessor.

10) That the Lessees shall not carry out any additions or alterations in the structure or otherwise under any circumstances.

11) That day-to-day repairs such as replacement of fuses and elements setting light, etc. are to be carried out by the Lessees at their own costs. However, the major repair shall be carried out by the Lessors at their own costs and expenses.

12) That the Lessees shall permit the Lessors or their agents or representatives to enter upon the demised property for inspection and to carry out the repairs etc. at any time as and when necessary.

13) That the Lessees shall maintain and keep the said property along with electrical wood and fixture in good working condition.”

17. The Respondents claimed a sum of Rs.1,28,961/- towards rent escalation with respect to the second and third floors of the suit property, computed at the rate of Rs.42,987/- per month for three months (August 2018 to October 2018), on the premise that the agreed rent stood enhanced from Rs.2,14,935/- to Rs.2,57,922/- with effect from 01.08.2018.

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18. The Commercial Court declined this claim primarily on the reasoning that, as per the Respondents' own case, the Appellants had been asked to vacate the suit property in July 2018 and the Appellants had agreed to vacate by 31.10.2018, and therefore, there was no occasion to demand enhanced rent during the notice period. The Commercial Court further observed that the lease deed dated 12.07.2017 was unregistered and, therefore, could not be looked into for enforcing the clause relating to enhancement of rent.

19. Having carefully examined the record, this Court is unable to concur with the aforesaid conclusion.

20. It is not in dispute that the Appellants continued to remain in possession of the suit property beyond 01.08.2018 and, in fact, vacated the premises only thereafter. The mere fact that the Respondents had called upon the Appellants to vacate the premises in July 2018, or that the Appellants sought time to vacate till 31.10.2018, does not, by itself, lead to the conclusion that the tenancy stood terminated with effect from 01.08.2018. Admittedly, the Appellants continued to enjoy use and occupation of the premises during the period August 2018 to October 2018.

21. A plain reading of the lease deed dated 12.07.2017 makes it manifest that upon completion of one year from the commencement of tenancy, the agreed monthly rent of Rs.2,14,935/- was liable to be enhanced by 20%, resulting in an enhanced rent of Rs.2,57,922/- per month. The escalation clause was not contingent upon execution of any fresh instrument, but was to operate automatically during the subsistence of the tenancy. Merely because the Respondents had



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expressed their intention to have the premises vacated, or had called upon the Appellants to vacate by a future date, does not, by itself, absolve the Appellants of their obligation to pay rent applicable for the period of actual use and occupation. Having consciously continued in possession of the premises beyond the initial one-year period, the Appellants could not avoid their liability to pay rent at the rate contractually applicable during such continued occupation.

22. Once it is accepted that the Appellants continued in possession of the premises beyond the completion of one year from the commencement of the tenancy, the liability to pay rent for such continued occupation necessarily follows. The question then arises is whether the enhanced rate of rent, as stipulated between the parties, could be applied for the said period.

23. The Commercial Court appears to have proceeded on the assumption that since the lease deed dated 12.07.2017 was unregistered, the clause providing for enhancement of rent could not be relied upon. This approach, in the considered view of this Court, is legally untenable.

24. The issue is no longer *res integra*. In ***Siri Chand (Dead) through Legal Representatives v. Surinder Singh***¹, the Supreme Court has held that where a rent note or lease deed does not prescribe a fixed term exceeding one year and operates as a tenancy terminable on short notice, the mere presence of a clause providing for yearly enhancement of rent does not render the document compulsorily registrable under Section 17(1)(d) of the Registration Act, 1908. The

¹ (2020) 6 SCC 288



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Court further held that such an enhancement clause is contingent upon the continuance of the tenancy and does not, by itself, convert the tenancy into one for a term exceeding one year. Consequently, non-registration of such a document does not render the enhancement clause unenforceable, because the lease itself is not required to be registered.

25. Applying the aforesaid principles to the facts of the present case, the lease deed dated 12.07.2017 ought not be treated as a lease for a term exceeding one year merely because it contains an escalation clause. The escalation clause operates automatically upon completion of one year, and is enforceable so long as the tenancy subsists. The continued occupation of the premises by the Appellants beyond 01.08.2018 attracted the contractual obligation to pay rent at the enhanced rate applicable during such period of occupation.

26. The reasoning of the Commercial Court that the mere issuance of a notice to vacate or the agreement to vacate by a future date, by itself, disentitled the Respondents from claiming enhanced rent is misconceived. Unless the tenancy had actually come to an end by surrender of possession, the liability to pay rent, at the rate applicable during the relevant period of occupation, could not be unilaterally avoided.

27. In view of the above discussion, it is evident that the reasoning adopted by the Commercial Court while rejecting the Respondents' claim for enhanced rent for the period August 2018 to October 2018 does not fully accord with the settled legal position governing escalation clauses in tenancies continuing beyond one year.

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Issue No. (b): Rent for Loss of user after vacation of the suit property

28. The Respondents had claimed rent for the months of November 2018 and December 2018 on the ground that they were unable to re-let the suit property on account of the condition in which the Appellants allegedly vacated the premises. The Commercial Court examined this claim in detail on the basis of the pleadings and evidence adduced by the parties.

29. The Commercial Court noticed inconsistencies in the Respondents' version regarding the date on which possession of the premises was handed back by the Appellants. While the Respondents asserted that possession was not delivered until 11.11.2018, their own evidence demonstrated that the security cheque was issued on 02.11.2018 and that the Respondents had inspected the premises on 04.11.2018. In view of this evidence, the Commercial Court rightly concluded that, at the very least, the premises were available to the Respondents by 04.11.2018.

30. The Commercial Court further observed that although the Respondents claimed loss of rent for a period of two months, no documentary or other cogent evidence was produced to establish that the premises were in fact re-let only after December 2018 or that earnest efforts were made to re-let the same during the said period. At the same time, the photographs placed on record indicated that the premises were left in a condition requiring repairs and could not have been immediately put to use or re-let without remedial work.

31. Taking an overall view of the evidence on record, the

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Commercial Court granted compensation towards loss of user for a reasonable period of one month, confined to November 2018, at the rate of the admitted rent of Rs. 2,14,935/- per month. The grant of compensation for loss of user for the said period is premised on the Appellants' continued occupation beyond the period of tenancy.

32. As noticed while dealing with Issue No. (a), on principle, the rate of rent applicable during the relevant period of occupation would have a bearing on the computation of compensation for loss of user. However, as already noted above, this Court is not called upon to revisit the quantification or rate at which such compensation has been awarded. In the absence of any challenge by the Respondents, the compensation awarded towards loss of user for the month of November 2018, as determined by the Commercial Court, is accordingly upheld.

Issue No. (c): Claims towards electricity and water charges

33. The Respondents claimed recovery of electricity charges for the period September 2018 to November, 2018. The Commercial Court carefully scrutinized the electricity bills placed on record and restricted the claim to the period during which the Appellants were found to be in occupation of the subject property. The Commercial Court specifically allowed electricity charges for the billing periods 15.09.2018 to 12.10.2018 and 01.10.2018 to 10.11.2018, amounting to Rs. 58,300/- and Rs. 2,99,080/- respectively. The Court excluded periods beyond the Appellants' occupation and allowed only those amounts which were supported by documentary evidence.



34. The contention urged on behalf of the Appellants that the electricity charges pertained to the entire building and not exclusively to the suit property was not substantiated by any evidence. No material was placed on record to demonstrate that the electricity meter was common to the entire building or that the bills did not relate to consumption attributable to the suit premises. In the absence of any such proof, the Commercial Court rightly rejected the said contention.

35. With respect to water charges, the Respondents relied upon documentary evidence showing unpaid water bills. The Commercial Court noted that although the water bills initially reflected a higher amount, the Respondents themselves restricted their claim to Rs. 17,845/- after adjustment. The Commercial Court accepted the reduced claim as supported by the record and allowed recovery of Rs. 17,845/- towards unpaid water charges. This finding is based on documentary evidence and does not suffer from any infirmity warranting appellate interference.

36. In the absence of any rebuttal evidence from the Appellants, and having regard to the fact that the Commercial Court itself restricted the claims to the period of actual occupation, this Court finds no perversity or error of law in the allowance of electricity and water charges. The findings recorded by the Commercial Court on this issue, therefore, do not warrant interference in Appeal.

Issue No. (d): Expenses towards repairs and renovation

37. The Respondents claimed that they had incurred expenditure amounting to approximately Rs. 7,00,000/- towards repairs and



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renovation of the building, out of which a sum of Rs. 4,50,000/- was stated to have been spent on the second and third floors constituting the suit property. In support of this claim, reliance was placed on invoices, receipts, and photographs depicting the condition of the suit property after the Appellants vacated the same.

38. The Commercial Court did not accept the said claim in its entirety. It correctly observed that expenses attributable to normal wear and tear of the tenanted premises, including routine items such as whitewashing and painting, are ordinarily to be borne by the landlord and cannot be fastened upon the tenant.

39. At the same time, the Commercial Court took note of the photographic evidence, which indicated removal of electrical fittings and damage of such nature that could not be attributed to normal wear and tear. The Commercial Court further noticed that the building comprised four floors, namely the Ground Floor to the Third Floor, and that the claim of Rs. 7,00,000/- pertained to the entire building.

40. Proceeding on a reasonable and pragmatic basis, the Commercial Court deducted a lump sum amount of Rs. 2,00,000/- (calculated at Rs. 50,000/- per floor) towards normal wear and tear, thereby restricting the admissible expenditure for the entire building to Rs. 5,00,000/-. Out of the said amount, the Commercial Court apportioned and allowed a sum of Rs. 2,50,000/- towards repairs and renovation attributable to the suit property comprising the second and third floors.

41. This Court finds that the approach adopted by the Commercial



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Court reflects a balanced and judicious appreciation of the evidence on record. The assessment is based on reasonable estimation and cannot be characterised as arbitrary, perverse, or suffering from any patent error of law. No ground is made out for interference with the said finding in Appeal.

Issue No. (e): Adjustment of the Security Deposit & Interest

42. It is an admitted position on record that the Appellants had deposited a sum of Rs.4,50,000/- as security with the Respondents at the commencement of the tenancy. The Commercial Court has taken note of the said amount and adjusted the same against the total sums determined to be payable by the Appellants under the Impugned Judgment.

43. The computation of the decretal amount, after adjustment of the security deposit, has been expressly set out by the Commercial Court. The Appellants have not been able to demonstrate that the said computation suffers from any arithmetical error, legal infirmity, or perversity warranting interference in Appeal. In the absence of any challenge by the Respondents, this Court is not called upon to examine whether any higher or additional amounts could have been awarded.

44. Insofar as the award of interest is concerned, the Commercial Court declined the Respondents' claim for interest at the rate of 16% per annum, finding the same to be on the higher side, and instead awarded interest at the rate of 6% per annum from the date of filing of the suit till realization. The rate so awarded is reasonable, equitable,



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and in consonance with settled principles governing the grant of interest. The exercise of discretion by the Commercial Court does not call for interference.

CONCLUSION

45. Having carefully considered the submissions advanced on behalf of the Appellants and examined the record, this Court finds no merit in the present Appeal.

46. Although certain aspects of the reasoning adopted by the Commercial Court have been examined hereinabove, it is material to note that the present Appeal has been filed by the tenants alone. No appeal, cross-appeal, cross-objections, or even oral submissions have been made on behalf of the Respondents seeking enhancement of any amount awarded or challenging the findings returned against them.

47. In the absence of any such challenge at the instance of the Respondents, this Court is not required to examine whether the Respondents were entitled to any higher or enhanced amounts than those awarded by the Commercial Court.

48. The scope of the present Appeal is, therefore, confined to examining whether the Impugned Judgment warrants interference at the instance of the Appellants. Finding no perversity, illegality, or patent error in the conclusions reached by the Commercial Court, this Court declines to interfere.

49. Resultantly, the present Appeal is dismissed. The Impugned Judgment is affirmed in its entirety.



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50. The pending application also stands closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

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