

CS DJ 553/23
VIJAY KUMAR JAIN Vs. MANISH GUPTA

21.09.24

Present: Sh Umang Jain ld counsel for plaintiff with plaintiff in person.
Sh Mukesh Gupta, ld counsel for the defendant with defendant in person.

For today, the Court has directed the defendant to appear in person with a view to seek his approval for grant of time to vacate the suit premises as admittedly, the defendant still has to pay a sum of Rs.1,60,000/- as the outstanding arrears of rent for the previous period. Instead, the defendant and his counsel are arguing vehemently that since there is registered rent agreement in existence till November, 2025 plus the plaintiff is not getting the bathroom repaired and lift operational for use by the defendant, therefore, the defendant cannot be directed to vacate the suit premises.

On the other hand, ld counsel for the plaintiff has showed a video clip which is also seen by the defendant as well as his counsel that the lift in question is being used by the relation of the defendant from parking to the first floor where the defendant is residing.

From this very video clip shown by ld counsel for the plaintiff on his laptop as also seen by defendant and his counsel, the argument of ld counsel for the defendant that the lift is not operational and not in use of the defendant is incorrect on its face.

While addressing arguments, ld counsel for defendant could not comment as to how and why the defendant

would not clear the outstanding arrears of Rs.1,60,000/- when the premises is being used by the defendant. Further, this Court is of the opinion that irrespective of their being rent agreement existing, when the present suit has been filed by the plaintiff intending not to keep the defendant as his tenant, it is not the wish of the defendant to withhold the tenanted premises unauthorizedly. The filing of the suit in itself is termination of tenancy. The present case is going on for last over one year and during this time the defendant ought to have made arrangement for some other accommodation for himself. The defendant cannot reside in the suit premises forcibly without the choice of the plaintiff and that too, when the defendant is not paying the rent regularly, prior to and/or after filing of the suit. The defendant, without awaiting the order of the Court, should have cleared the arrears of rent in which he has miserably failed. A simple case for vacation of tenanted premises is being tried to be made a difficult case on various unfounded pleas by Id counsel for the defendant only with a view to drag on the case unnecessarily to the detriment of the plaintiff. The law cannot be allowed to be misused at the instance of the defendant to remain encroached over the suit property. If the plaintiff does not wish the defendant to be his tenant, in plain words without going into the intricacies of law, the defendant should vacate the premises and search for some other alternate accommodation. The plaintiff has not constructed the suit property for the enjoyment of the defendant. The defendant can pay the rent to some other person. When there are so many discrepancies, deficiencies and short-comings in the

the suit premises as argued by ld counsel for the defendant, then why the defendant wants to live in suit premises only. He should vacate it. It is also not so that the defendant has already made the payment of rent upto November, 2025 in advance. When things are not good there, defendant should vacate. What is the fun living there in acrimonious condition. When the relations between the two are not good and cordial, they should part with from each other peacefully. Recently, the Hon'ble Supreme Court on 17.05.2024 in Bijay Kumar Manish Kumar HUF vs Ashwin Bhanulal Desai in I.A. No.120219/2020 in Special Leave Petition(C) No.4049 of 2020, has held that a defaulting tenant cannot be allowed to retain the suit premises.

In view of the above, I do not see any reason to allow the defendant to remain in the suit premises any longer. Therefore, the defendant is hereby directed to vacate the suit premises within 30 days from today with further direction to clear all the arrears of rent, electricity and water charges.

The decree of possession shall be drawn accordingly.

Put up the case for further proceedings, for 24.10.24.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/21.09.24