

[CS \(COMM.\)/750/2021](#)

CNR NO. : DLNW010105402021

SATYENDRA KUMAR JAIN

Vs.

SARDAR PRABHJIT SINGH

02-08-2022

Present: Sh. U. D. Bhargava, counsel for plaintiff.

Heard. File perused.

In response to query, learned counsel for plaintiff submitted that the property in question is residential, however, same was given for commercial purpose.

Our own Hon'ble High Court in case title as *Mrs. Soni Dave vs M/s Trans Asian Industries*, decided on 19th July, 2016 observed as under, to quote :-

15. I may in this regard also observe that a property, prescribed user whereof as per the law i.e. the Master Plan and the municipal laws is residential, even if let out for use exclusively in trade or commerce or when, without being so let out, is used exclusively in trade or commerce, the same would still not qualify as an immovable property used exclusively in trade or commerce within the meaning of Section 2(1)(c) of the Commercial Courts Act. The Commercial Courts Act has brought only disputes arising out of transactions relating to immovable property used exclusively in trade or commerce within the ambit of a commercial dispute. The legislature could not have intended to bring disputes arising out of transactions relating to immovable property illegally used exclusively in trade or commerce within the ambit of commercial disputes. The principle, as enunciated in the

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context of the provisions in the municipal laws, of determination of reteable value / annual value (for payment of property tax/ house tax on the basis of) the rent at which the property can reasonably be expected to let, will be applicable. It has been held that where, under the law i.e. the Rent Acts, the landlord is prohibited from charging from the tenant anything more than the standard rent the municipal authority cannot, determine the reteable value/ annual value at a rent more than the standard rent, even if the owner/ landlord is actually receiving rent more than standard rent. Reference in this regard can be made to Dr. Balbir Singh Vs. MCD (1985) 1 SCC 167. It was held that the owner / landlord could not reasonably expect to get more than the maximum rent permitted in law.

28. If it were to be held that all suits arising out of agreements relating to immovable property used exclusively in trade or commerce and / or for recovery of possession thereof and / or for realization of monies with respect thereto, where the market value of the property is in excess of Rs.1 crore are commercial dispute triable by the Commercial Division of the High Court, it would bring to the Commercial Division of this Court all the disputes as between landlord and tenant of such property and for specific performance of agreements of sale of such property, even if the annual rent thereof or the sale purchase consideration thereof is of less than Rs. 1 crore, inundating the commercial divisions of the High Court and not allowing commercial disputes for expeditious disposal whereof the Commercial Courts Act was enacted to be decided expeditiously and defeating the very purpose of enactment of the Commercial Courts Act. It is a settled principle of interpretation of statutes that the provisions of a statute have to be interpreted in a reasonable way, to serve the purpose for which the statute has been enacted and not to

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defeat the said purpose. Supreme Court in Union of India Vs. Ranbaxy Laboratories Ltd. AIR 2008 SC 2286 held that the Court has not only to take a pragmatic view while interpreting a statutory provision, but must also consider the practical aspect of it.

Therefore it is clearly laid down that the property, which is used contrary to law even for commercial purpose, would not qualify to fall within definition of commercial dispute as defined under S. 2(1)(c) of the Commercial Courts Act, 2015. Admittedly, the property in question was residential, which was let out for commercial purposes. In view of law laid down in above cited case, I am of the opinion that dispute between the parties is not 'commercial dispute' as defined under S. 2(1)(c) of the Commercial Court Act, 2015. In view of it, let file be sent to Ld. Principal District & Sessions Judge, North-West, Rohini Courts for proper order.

Parties are directed to appear before Ld. Principal District & Sessions Judge, North-West, Rohini Courts on 03-08-2022 at 2:00 p.m.

Ahlmad to send file complete in all respects.

(GURDEEP SINGH)
DISTRICT JUDGE (COMMERCIAL)
NORTH-WEST/ROHINI/DELHI
02-08-2022