

**IN THE COURT OF MS. RUCHIKA SINGLA,
DISTRICT JUDGE-03, NORTH-WESTDISTT.,
ROHINI COURTS, DELHI**

24.04.2024

CS DJ. 681/22

**SATYENDRA KUMAR JAIN VS. SARDAR
PRABHJIT SINGH**

ORDER

1. Vide this order, I shall dispose of the application under Order 12 Rule 6 CPC filed by the plaintiff. Reply has been filed by the defendant. Arguments were advanced in the morning session. I have also gone through the record.

2. Briefly stated, the facts of the case as alleged by the plaintiff are that he is the owner of the suit property and that the same was let out by him to the defendant at a monthly rent of Rs.17,500/- in June, 2019. At the time of the creation of the tenancy, it was agreed that the electricity and the water bills shall be paid by the defendant. Further, it is alleged that w.e.f. 1st July 2019, the rent was enhanced by Rs. 1000/-, totalling to Rs.18,500/- per month. It is stated that the defendant did not pay the rent w.e.f June 2019 till January 2020, a fact which was acknowledged by the defendant on 15.02.2020. Hence, the plaintiff issued a legal

notice dt. 13.07.2021 to the defendant terminating the tenancy. The notice was duly served upon the defendant. Hence, the plaintiff filed the present suit for eviction, recovery of arrears of rent and damages.

3. It is submitted by the Ld. Counsel for the plaintiff that in the WS, the defendant has admitted the factum of the tenancy. He also admits that he has not paid the rent since three years. He has admitted the rate of rent in para no. 2 of the WS. The postal receipts of the legal notice are placed on record. Even otherwise, the summons of the suit is equivalent to the service of the legal notice. Hence, the suit of the plaintiff may be decreed under Order 12 Rule 6 CPC.

4. The application has been opposed on behalf of the defendant. It is submitted that though the tenancy is not disputed, but the defendant has not admitted the factum of the rate of rent. It is submitted that it has been specifically alleged that the property was let out to the defendant by the father of the plaintiff in the year 2004 at a monthly rent of Rs. 1500/- , which was enhanced to Rs. 2500/- in the year 2008. It is submitted that after the demise of the father of the plaintiff, the plaintiff unilaterally enhanced the rent at Rs. 18,500/- which was never agreed upon by the defendant. Hence, the defendant is not liable to pay the rent

at that amount. He is ready to pay the rent @ Rs. 2500/- per month. The arrears of rent till September 2022 are Rs. 30,000/-, which the defendant is ready to pay. Further it is stated that the defendant had paid a pagri amount of Rs. 10 lacs to the plaintiff's father. In view of these circumstances, it is argued that there is no admission on behalf of the defendant. Hence, the application may be dismissed.

5. Ld. Counsel for the plaintiff has relied upon two judgments of the Hon'ble High Court of Delhi in ***Satish Jain Vs. Taro Devi RC REV No.595/2012 decided on 05.11.2014*** where it has been held that “ Section 13 of the Act (Delhi Rent Control Act) provides that if a landlord has illegally received any monies in the form of premium, then within one year of making the payment, the tenant can seek the recovery of the same and not thereafter”. He has also relied upon case titled as ***Dina Nath Vs. B.L. Sharma (1979) 49 Comp. Cas 364 Delhi*** wherein it has been held that “ as the taking of any premium or pagri is forbidden by law, this court cannot take judicial notice of any such illegal act which might have been committed”. Hence, it is argued that the defence of the alleged pagri cannot be taken by the defendant.

6. Record perused.

7. For a decree to be passed under Order 12 Rule 6 CPC, it is essential that there should be a clear and unequivocal admission on the part of the defendant. Further, the WS of the defendant has to be read as a whole and not in part. In the present matter, the defendant has admitted the landlord tenant relationship between the parties. However, he has specifically denied the rate of rent to be Rs.17,500/- or Rs.18,500/-. He has specifically stated that the property was let out at an initial rate of Rs.1500/- per month which was later on enhanced to Rs.2500/- per month. There is no written agreement on record. It is admitted that the tenancy was oral. Hence, this shall be a matter of trial as to what was the agreed rate of rent between the parties. However, the defendant is directed to pay the admitted arrears of rent and future rent @ Rs.2500/- per month to the plaintiff. The arrears of rent be paid within 30 days.

8. Further, as the defendant has specifically alleged that the rate of rent was Rs.2500/- per month, the court has to consider as to whether the present matter falls within the purview of the Delhi Rent Control Act or not. If yes, then this court shall have no jurisdiction to pass the order of eviction as the jurisdiction to pass such an order is only with the Rent Controller. Hence, though the tenancy is

admitted, the order of eviction cannot be passed at this stage without leading evidence as to the applicability of Delhi Rent Control Act. The application is disposed of accordingly.

(RUCHIKA SINGLA)
DJ-03 (N/W)
Rohini Courts :Delhi/24.04.2024