

IN THE COURT OF Ms. MEENU KAUSHIK: DJ – 03
NEW DELHI DISTRICT: PATIALA HOUSE COURTS
NEW DELHI

CS No. 56391/16

M/s Aerotex Trade International

...Plaintiff

Versus

M/s Eden Developers P. Ltd. & Ors.

...Defendant

ORDER

1. By way of this order, I shall dispose of the application moved on behalf of plaintiff u/O 12 Rule 6 of CPC. Record perused.

2. Plaintiff has filed suit for possession, recovery of damages, recovery of hire charges and permanent injunction against the defendants. It is stated that the suit property was let out by the plaintiff to defendant No.1 vide agreement dated 15.02.2006 for a period of three years which was renewed for further three years. However, the lease was again extended vide agreement dated 15.02.2012 for a period of three years expiring on 14.02.2015 and the rate of rent was Rs.32,400/- plus service tax @ 12,36% and after calculating the area 650 Sq. ft. Private No. B-1 belonging to the plaintiff the share of plaintiff in the said rent comes to Rs.12,220/- plus service tax Rs.1510/- totaling Rs.13,830/- PM. Rest of the rent belongs to the defendants No.3,4 & 5 according to their respective area in the suit property. It is further stated that two firms namely M/s Oriental Industrial Corporation and M/s

United Industrial Corporation installed various fittings and fixtures in the suit property which were hired by the defendant No.1 and the hire charges of one agreement is Rs.9,000/- pm i.e. Rs.18,000/- pm for both the agreement and the plaintiff has purchased the said fittings and fixtures from M/s Oriental Industrial Corporation and M/s United Industrial Corporation vide respective agreements dated 18.03.2013 and as such plaintiff is also entitled for hire charges of Rs.18,000/- pm from the defendant No.1.

3. It is further stated that it was specifically agreed between the plaintiff and the defendant no.1 vide following clauses:-

2(d) NOT TO SUBLET, ASSIGN OR OTHERWISE PART WITH THE POSSESSION OF THE WHOLE OR THE PART OF THE PREMISES DEMISES WITHOUT PREVIOUS CONSENT OF THE LESSOR IN WRITING. LESSEE SHALL INFORM THE LESSOR IN ADVANCE BY WAY OF THREE MONTHS WRITTEN NOTICE IF HE DOES NOT WANT TO CONTINUE AS LESSEE.

3(a) THE LESSOR COVENANS TO PAY ALL THE PRESENT AND FUTURE TAXES, RATES, HOUSE TAX, ASSESSMENT AND OUT GOING ASSESSED AND/OR ANY OTHER CHARGES, LEVIES IMPOSED OR PAYABLE TO THE NDMC OR ANY OTHER GOVT. DEPARTMENT/AUTHORITY DURING THE LEASE PERIOD. LESSOR SHALL INFORM

THE LESSEE IN ADVANCE BY WAY OF THREE MONTHS WRITTEN NOTICE IN CASE HE WANTS TO GET THE PREMISES VACATED.

4. It is stated that as per agreed terms no tenant/lessee has any right to sublet, assign or part with the possession of whole or any part of the leased property however, the defendant no.1 violated the condition and admittedly without consent and knowledge of the plaintiff sub-let/parted with the possession of the suit property to a sub-tenant Mr. Ajay Vikram Singh (Advocate). It is further stated that in view of the clause of lease deed, plaintiff served a legal notice dated 9.7.2012 terminating the tenancy of the defendant no.1 giving three months which was admittedly served upon the defendant no.1 who sent a false and frivolous reply dated 17.8.2012. It is submitted that by virtue of the said notice, tenancy is duly terminated w.e.f. 15.10.2012 and defendant No.1 is liable to vacate the suit property and hand over the actual, physical and vacant possession of the property of the plaintiff. It is further stated that status of defendant is only of an unauthorized occupant. It is further stated that since the nature of relationship between parties and receiving of legal notice is not disputed by defendant No.1, present application with a prayer to decree in favour of plaintiff is moved.

5. Per contra, it is not disputed on part of defendant No.1 that he is tenant in the suit property. Defendant No.1 has also not disputed that the rent agreement mentioned by the plaintiff in its application as well as the rate of agreed rent, however, it is contended that division and sub-division in the suit property are

disputed. It is further stated that defendant has not violated any terms and conditions of the said lease deed and hence no occasion arises for the termination of the lease deed by the plaintiff. It is further argued that Clause 3A of the lease deed is to be read in consonance of Clause 3B and upon reading of the clauses, it becomes crystal clear that plaintiff has no right to terminate the said lease deed. It is further argued that suit property cannot be partitioned as being one composite leased premises and on previous occasion the plaintiff by playing fraud and on material concealment without disclosing that in the year 1995 the alleged sub-division of the property has been declined by the House tax department of NDMC and it was held that there is no sub division of the basement legally and if at all it has been done than it is in violation of the terms of the lease deed and it was held that the agreement with respect to the portion of the sale of the basement is illegal and void. It is further stated that defendant no. 1 has not sub-letted or parted with any portion of the suit property. It is further stated that Mr. Ajay Vikram Singh is one of the legal advisors of the defendant no.1 company and not a sub-tenant and Mrs. Priyanka Singh is wife of Mr. Ajay Vikram Singh and is legal advisor of the defendant company on the retainership basis and accordingly has been provided with a office space at the suit premises. It is further stated that Mr. Ajay Vikram Singh only uses the said address for correspondence purpose. It is further claimed that no profit in the form of any rent is being charged from Mr. Ajay Vikram Singh with respect to the suit property. It is further argued that since there is no merit in the application, same should be dismissed.

6. Submissions made on behalf of both the parties are taken into consideration. Record perused.

7. As per case of plaintiff, the basement (suit property) constitutes four parts bearing Private Nos. B1, B2, B3 & B4 and plaintiff is the owner of Private No. B-1 and defendant No.3 to 5 let out their portions of basement to him with the right to further let out these portions. In these circumstances, defendant No.1 was inducted as tenant in the entire basement by plaintiff. Later application u/O 6 Rule 17 of CPC was moved by plaintiff to amend the suit mentioning that he has surrendered the tenancy of the portions of Private Nos. B2, B3, B4 to defendants No.3 to 5 respectively on 15.03.2013 to avoid any unnecessary litigation. After amendment, the plaintiff seeks to claim damages from defendant No.1 in respect of his portion bearing Private No. B-1 for the month of March, 2013 and various charges for the period from 01.05.2012 to 31.03.2013 apart from possession of portion being private No. B-1.

8. As per defendant No.1 the impugned basement with Plot Nos. B1, B2, B3 and B4 is indivisible as per orders dated 26.04.1995 of House Tax Department of NDMC. The said fact is not denied by the plaintiff.

9. Plaintiff has sought possession of his portion in the impugned basement. Hence, it prima facie appears that if order for eviction is passed against defendant No.1 at this stage, he will have to vacate the whole of the suit property. Thus, the court is of considered opinion that issue of grant of possession to plaintiff

with respect to his share cannot be decided without granting the opportunity to all the parties to lead evidence.

10. Accordingly, present application moved under Order 12 Rule 6 of CPC stands disposed of as not allowed.

***(Announced in the open Court
on 18th March, 2026)***

**(Meenu Kaushik)
District Judge-03
Patiala House Courts, New Delhi District
New Delhi**