

**IN THE COURT OF MS. SHAINA GOYAL: CIVIL JUDGE
NORTH WEST: ROHINI COURTS : DELHI**

CS No. 992/2020

CRN no. DLNW030016902020



Mrs. Meenakshi Tyagi
W/o Shri Pradeep Kumar Tyagi
R/o A-1/163, Sector-16,
Rohini, Delhi

..... Plaintiff

V/S

Mr. Krishan Dutt Paliwal
S/o Shri. Nand Kishore Maheshwari
R/o H. no. 78, Third Floor,
Pocket-13, Sector-3,
Rohini, Delhi

..... Defendant

**SUIT FOR RECOVERY OF POSSESSION, ARREARS OF
RENT, DAMAGES PERMANENT & MANDATORY
INJUNCTION,**

Date of institution : 19.11.2020

Date of decision : 30.07.2024

Final Order : **Exparte decreed**

EXPARTE JUDGMENT

BRIEF FACTS

1. The case of the plaintiff is that plaintiff is absolute owner of property bearing unit no. 131, First Floor, Plot no. 07, Vardhaman Grand Plaza, District Center, Manglam Place, Sector-03, Rohini, situated in Delhi-110085. The plaintiff has rented out the abovesaid property (*hereinafter called "suit property"*) on rent to the defendant for a period of 24 months at the rent of Rs. 7260/- p.m for first 12 months and Rs. 7986/- p.m for remaining 12 months. The defendant failed to pay the rent regularly. The

tenancy of the defendant was terminated by the plaintiff by way of legal notice dated 16.07.2020 however the defendant failed to pay the arrears of rent and failed to vacate the suit property. Hence the present suit.

2. Upon service of summons, defendant has not appeared. Upon non filing of WS, defence of defendant was struck off vide order dtd. 19.05.2022 and the defendant was proceeded ex parte thereafter.

TRIAL

3. In her evidence, plaintiff examined herself as **PW1** *vide* affidavit **Ex. PW1/A and PW1/1A** wherein she re-iterated the contents of the plaint and relied upon the following documents:

(i) **Ex. PW1/A(OSR)**- Copy of the Lease Agreement dated 22.05.2018:

(2) **Ex. PW1/B(OSR)**- Copy of termination notice dated 27.05.2020;

(3) **Ex. PW1/C(Colly)** – Whatsapp Screenshot and postal receipts;

(4) **Ex. PW1/D** – Copy of calculation sheet;

(5) **Ex. PW1/2**- Certificate u/s 65-B.

(6) **Ex. PW1/E**- Statement of accounts;

(7) **Ex. PW1/F**- Copy of the payment receipt of the electricity bill dated 04.12.2022.

(8) **Ex. PW1/2A** - Certificate u/s 65-B of Indian Evidence Act, 1872.

No other witness was examined and PE stood closed on 20.09.2022.

4. Arguments heard. Record perused.

FINDINGS

5. The burden to prove its case was upon the plaintiff by virtue of Section 101 of the Indian Evidence Act, 1872.

5.1 It is pertinent to mention that the fact that plaintiff's evidence in *Ex-parte* proceedings remained unchallenged and unrebutted does not mean that the case set up and the evidence adduced in support thereof would not be judicially scrutinized. The case set up by the plaintiff and the supporting evidence have to be tried and tested on the touchstone of rules of evidence and the other laws, just like any other case. No adverse inference can be drawn against the defendant on the mere premise that they suffered the proceedings *Ex-parte*. Decisions reported as **Shiv Nandan Sachdeva (Sh.) vs. Smt. Ruby, 2009 V (Delhi) 55** and **M. P. Narayan vs. Sm. Before Sudhadevi & Ors., AIR 1986 Cal. 256** can be referred to in this regard.

5.2 The plaintiff examined herself as PW-1 and duly proved the contents of the plaint as well as documents relied upon by her. The plaintiff has relied upon **Ex.PW-1/A (OSR)** to show that plaintiff was the landlord in the suit property and the defendant was inducted as a tenant of the plaintiff. The plaintiff also produced original of the same. The factum of termination of tenancy by the plaintiff is reflective from **Ex. PW1/B (OSR)**. The testimony of the plaintiff has gone unrebutted and uncontested in the absence of any cross-examination on behalf of the defendant. The suit is otherwise well within limitation. Thus, the plaintiff

has discharged the initial burden of proof upon him.

5.3 Plaintiff has also claimed pendente-lite & future interest @ 18% p.a. upon the decretal amount. In my opinion the interest claimed is on a higher side and interest @ 6 % p.a. shall be sufficient to meet the ends of justice.

RELIEF

6. For the reasons assigned hereinabove, the plaintiff is granted the following reliefs:

- (i) A decree of possession is passed in favour of the plaintiff and against the defendant qua property bearing unit no. 131, First Floor, Plot no. 07, Vardhaman Grand Plaza, District Center, Manglam Place, Sector-03, Rohini, situated in Delhi-110085 and defendant is granted a time of 30 days to vacate the suit property.
- (ii) A decree for recovery of arrears of rent and mesne profits amounting to Rs. 1,18,536/- alongwith pendentelite and future interest of 6 % from date of institution till actual realization is passed in favor of the plaintiff.

Cost of the suit is awarded in favour of the plaintiff.

Decree sheet be prepared accordingly.

File be consigned to Record Room after due compliance.

Announced in the open Court today.

(Shaina Goyal)
Civil Judge-N/W District
Rohini Courts/30.07.2024