

ITEM NO.4

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

IA NO. 1 in  
Petition(s) for Special Leave to Appeal (Civil) No(s).873/2012

(From the judgment and order dated 22/12/2011 in RR No.226/2010  
of The HIGH COURT OF DELHI AT NEW DELHI)

R.K.BANSAL

Petitioner(s)

VERSUS

JAG PRAVESH SHARMA

Respondent(s)

(For directions and office report)

Date: 27/03/2012

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI  
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s)

Mr. O.P. Khadaria, Adv.  
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

Mr. Gaurav Agrawal, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The application is disposed of in terms of  
the signed order.

[KALYANI GUPTA]  
COURT MASTER

[INDU SATIJA]  
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE.]

IA NO. 1 in SLP(C) No. 873 of 2012

1

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

IA NO. 1 IN  
SPECIAL LEAVE PETITION (CIVIL) NO. 873 OF 2012

R.K. BANSAL

.....

PETITIONER/  
NON-APPLICANT

VERSUS

JAG PRAVESH SHARMA

.....

RESPONDENT/  
APPLICANT

O R D E R

1. This is an application filed by the landlord who is respondent in the Special Leave Petition praying that the non-applicant tenant is merely paying `175/- per month which was fixed decades ago, is grossly disproportionate to the market rent prevailing in the said area.

2. The applicant-landlord had filed an application for eviction of the non-applicant - tenant under Section 14(e) of the Delhi Rent Control Act on the ground of bona fide requirement. The said eviction suit was decreed by the learned Additional Rent Controller vide order dated 18th May, 2010.

IA NO. 1 in SLP(C) No. 873 of 2012

2

3. Aggrieved by the said order, the non-applicant - tenant filed a Revision Petition before the Delhi High Court. The tenant prayed for stay of execution of the eviction decree against him. When the said stay application came up for consideration before the learned Single Judge of the Delhi High Court on 24 th August, 2011, the applicant-landlord pointed out that the market rent of the suit property would be around `50,000/- per month and therefore, it was prayed that the petitioner-tenant be directed to pay the market rent from the date of the eviction decree in view of the judgment of this Court in Atma Ram Properties (P) Ltd. v. Federal Motors Pvt. Ltd. (2005) 1 SCC 705.

4. The learned Single Judge of the High Court

directed the petitioner-tenant to pay `25,000/- per month with effect from 18th May, 2010 during the pendency of the Revision Petition noticing the fact that the suit property was situated in a prime commercial area of Delhi. The arrears were directed to be paid within a period of one month. The order of the High Court in the aforesaid petition is set out as under:-

"RC. REV. 226/2010

Today counsel for the petitioner says that the petitioner will pursue this petition on merits. In view of this, counsel for both the parties submit that revision petition can be fixed for final

IA NO. 1 in SLP(C) No. 873 of 2012

3

hearing on some actual date. Accordingly list this revision petition for final hearing in the category of 'After Notice Miscellaneous Matters' on 15th December, 2011.

CM APPL. 17100/2010

Learned senior counsel for the respondent-landlord says that as a condition for stay of execution of the impugned eviction order, if at all this Court is inclined to grant that relief the petitioner-tenant is directed to pay charges for use and occupation of the tenanted premises at the present market rate keeping in view the decision of the Hon'ble Supreme Court in Atma Ram Properties (P) Ltd. vs. Federal Motors Pvt. Ltd. (2005) 1 SCC 705. He also says that the present day market rent of the two shops in question would be around `50,000 per month. Counsel for the petitioner-tenant while not disputing that he is not liable to pay charges for use and occupation over and above the agreed contractual rent says that the market rent of two shops would not be more than 10,000 per month.

Without going into detailed enquiry as to what would be the recent rent of the premises in question, which are stated to be in Qutab Road, a prime commercial area these days in Delhi, I direct the petitioner to pay to the respondent-landlord charges for use and occupation @ `25,000 per month from the date of passing of the impugned eviction order till the disposal of this petition. This would be

a condition of stay of dispossession of the petitioner-tenant from the premises in question. The arrears shall be cleared within a month and from September, 2011 onwards the aforesaid amount shall be paid to the respondent on or before 7 th of each month. In case of default, the

IA NO. 1 in SLP(C) No. 873 of 2012

4

petitioner shall become liable to be evicted forthwith. The amounts paid by the petitioner shall be subject to the final outcome of the revision petition. This application stands disposed of accordingly."

5. The non-applicant - tenant filed a Review Petition under Order XLVIII of the Code of Civil Procedure before the High Court itself against the aforesaid order dated 24th August, 2011 being Review Petition No. 528 of 2011. In the said Review Petition, the petitioner annexed a valuation report in relation to only 276 square feet in support thereof (whereas the suit property was admeasuring about 500 square feet).

6. The applicant-landlord filed a Lease Deed of a neighbouring premises (not owned by the applicant) which shows that the market rent of the suit property would be `65,000/- per month as per the said Lease Deed.

7. After hearing the parties, the High Court was pleased to dismiss Revision Petition No.528 of 2011 filed by the petitioner-tenant and thereby upheld the fixation of rent of `25,000/- per month with effect from 18th May, 2010.

8. However, unfortunately the non-applicant - tenant  
IA NO. 1 in SLP(C) No. 873 of 2012

5

deliberately did not pay the interim rent at the rate of

the '25,000/- fixed by the Delhi High Court during  
pendency of the Revision Petition. The Revision  
Petition was ultimately dismissed by the High Court vide  
order dated 22nd December, 2011 on merits. The said  
order was challenged by the non-applicant - tena  
nt before this Court by way of Special Leave Petition  
(Civil) No.873 of 2012.

for 9. The said Special Leave Petition came up  
admission hearing before this Court on 12th January, 2012  
when this Court while dismissing the aforesaid petition  
to granted one year's time to the petitioner-tenant  
vacate the premises, subject to filing usual undertaking  
within 4 weeks. The order reads as under:-

"Taken on Board.

We find no ground to interfere  
with the impugned order. The Special  
Leave Petition is dismissed.

However, as prayed for, one  
year's time is granted for vacating the  
premises upon filing usual undertaking  
in the Registry of this Court within  
four weeks from today."

the 10. We had granted one year's time to vacate  
premises on the aforesaid date.  
IA NO. 1 in SLP(C) No. 873 of 2012

6

lord 11. The main reason for proliferation of land  
tenant matter is primarily because landlord do not get  
rent which is close to the market rent. In landlor  
d tenant matter it is the bounden duty and obligation of  
the Court to ensure that the landlord gets rent which is  
akin to market rent. The High Court was quite justified  
in increasing the rent from ' 175/- to ' 25,000/- in view

of the facts of this case.

12. For the reasons aforesaid, we direct that in case the non-applicant - tenant wants to stay in the premises for the aforesaid period then he would be obliged to pay rent at the rate of `25,000/- with effect from 18th May, 2010 per month as fixed by the High Court of Delhi, otherwise the tenant is directed to vacate the premises

usual within one month from today subject to filing

give undertaking within four weeks from today and

peaceful possession to the applicant-landlord along with

arrears of rent with effect from 18th May, 2010. If

premises is not vacated within the time stipulate

d above, then the applicant-landlord would be at liberty

the to take police help and get the possession of

premises from the non-applicant - tenant.

13. This application is, accordingly, disposed of.

IA NO. 1 in SLP(C) No. 873 of 2012

7

.....J  
[DALVEER BHANDARI]

.....J  
[DIPAK MISRA]

NEW DELHI  
MARCH 27, 2012.