

ITEM NO.101

COURT NO.2

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5598/2006

PREM KUMAR & ANR.

Appellant(s)

VERSUS

HARISH KHURANA ETC.

Respondent(s)

(with appln. (s) for directions and clarification/modification of court's order and exemption from filing O.T. and permission to file additional documents and office report)

WITH

CONMT.PET. (C) No. 420/2011 In C.A. No. 5598/2006
(With Office Report)

Date : 30/07/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Jayant Kumar Mehta, Adv.
Mr. Saurabh Dev Karan Singh, Adv.
MS. Madhvi Khare, Adv.
Mr. Devvrat, Adv.

For Respondent(s) Ms. Indu Malhotra, Sr. Adv.
Ms. Niranjana Singh, Adv.

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

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

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.5598 OF 2006

Prem Kumar and Anr.

... Appellants

Versus

Harish Khurana etc.

...Respondents

ORDER

Ms. Indu Malhotra, learned counsel submits that since the respondents-tenants have already vacated the premises in their occupation, the entire controversy has become academic. According to her the only question that remains to be addressed is whether the amount lying in deposit with the Court should be released to the applicants-tenants or paid to the landlord. She drew our attention to the order passed by the High Court whereby the appellants were directed to deposit compensation for use and occupation of the disputed premises @ Rs.8,000/- w.e.f. 1st January, 2006. That amount was enhanced to Rs.50,000/- p.m. by the order of this Court dated 3rd February, 2010. She submits that the landlord was, in terms of a subsequent order dated 9th January, 2012, allowed to draw from the amount so deposited a sum of Rs.8,000/- p.m. only. The

balance amount after said withdrawal is still lying in deposit in the court concerned which according to her deserves to be released in favour of the respondents-tenant.

On behalf of the landlord it was on the other hand contended that in view of the appeal becoming infructuous upon vacation of the premises, the amount lying in deposit cannot be released in favour of the tenant. It was submitted that rent @ Rs.8,000/- p.m. was determined by the High Court as early as in the year 2006, whereas the premises in question was vacated only on 31st March, 2013. During the intervening period rental of the property had increased substantially and was much more than Rs.50,000/- p.m. which this Court directed the respondents-tenant to deposit. It was urged that the respondents had enjoyed the use and occupation of the premises which was a large commercial property measuring 963 sq. mts. Having so enjoyed the property on the condition that the occupant will pay user charges @ Rs.50,000/- p.m., there is no legal or equitable reason for the tenant to claim the amount deposited by them.

There is, in our opinion, merit in the submission of learned counsel for the landlord. The commercial premises let out to the tenant measured 963 sq. mtrs. out of which the

tenant had vacated nearly 453 sq. mtrs. but continued to occupy the rest. They were directed to deposit Rs.50,000/- p.m. towards user charges which deposits were made till 31st March, 2013. There is no denying the fact that the respondents have made full use of the premises for nearly three years after the order of this Court dated 3rd February, 2010 on a clear understanding that they will be required to deposit Rs.50,000/- p.m. for such use. Having accepted that stipulation and having used the premises we see no justification for refunding the amount deposited by the tenants to them. The appellants-landlord are rightfully entitled to claim the amount in deposit.

We accordingly dispose of these proceedings with the direction that the amount lying in deposit shall be released in favour of the landlord together with interest accrued on the same. No costs.

.....J.
(T.S. THAKUR)

.....J.
(V. GOPALA GOWDA)

.....J.
(R.BANUMATHI)

**New Delhi,
July 30, 2015**