

petitioner shall have no right or concern with the business premises, assets etc.

After about 8 months, the respondent filed suit for recovery of possession of the shop by alleging that the petitioner had failed to abide by the terms of contract agreement and had not paid the contractual amount.

In the written statement filed by him, the petitioner averred as under:

1. The plaintiff-respondent is neither the owner nor landlord of the suit premises.
2. The respondent had given shop in lieu of the loan of Rs.2 lacs given by him.
3. The respondent had agreed that the petitioner will become owner of the shop and will continue to remain in possession till the loan amount was returned.
4. The contract agreement is forged and fabricated. The respondent had obtained his signatures on blank papers and then prepared the contract agreement.
5. The suit is barred by Section 50 of the Delhi Rent

3

Control Act, 1958.

After considering the pleadings and evidence of the parties, the trial Court held that the petitioner has failed to prove that he had advanced loan of Rs.2 lacs to the respondent; that the Delhi Rent Control Act is not applicable to the area in question and that the plaintiff-respondent has been able to prove the execution of contract agreement Ex.PW-1/B and violation of the terms thereof by the petitioner.

The lower appellate Court confirmed the finding of the trial Court that the parties had entered into contract agreement but held that it was a lease and not a licence and, therefore, the respondent was not entitled to seek recovery of possession. The lower appellate Court also opined that the suit was not maintainable in view of the bar contained in Section 50 of the Delhi Rent Control Act.

The learned Single Judge referred to the terms of the contract agreement and held that it was a licence and not a lease and that the suit filed by the respondent was maintainable. The

learned Single Judge further held that the petitioner had taken contradictory stand inasmuch as he had pleaded that the shop was given to him in lieu of the loan advanced to the respondent and that the parties had not executed the contract agreement and held that he was not entitled to plead that the suit premises were taken on lease.

We have heard learned counsel for the petitioner and carefully perused the record. In our view, the impugned judgment

4

is in consonance with the law laid down by this Court in Khalil Ahmed Bashir Ahmed v. Tufelhussein Samasbhai Sarangpurwala (1988) 1 SCC 155, Puran Singh Sahni v. Sundari Bhagwandas Kriplani (1991) 2 SCC 180, Swarn Singh v. Madan Singh 1995 Supp (1) SCC 306 and Delta International Limited v. Shyam Sunder Ganeriwala (1999) 4 SCC 454 and does not call for interference under Article 136 of the Constitution. In the written statement filed by him, the petitioner had not only denied execution of the contract agreement, but had also pleaded that the document marked as PW-1/B was forged and fabricated. Therefore, the lower appellate Court was not entitled to render a finding that the said document amounted to lease agreement and the prohibition contained in Section 50 of the Delhi Rent Control Act was attracted.

With the above observations, the special leave petition is dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master