

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM (M) 23/2002

Reserved on : 29th May, 2008

Date of Decision : 30th May, 2008

ATMA RAM PROPERTIES PVT. LTD..... Petitioner

Through: Mr. L.K. Garg, Advocate

versus

ESCORTS LIMITED AND ANOTHER..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest

JUDGMENT

%

V.K. SHALI, J

1. This petition which was filed on 18th January, 2002 and admitted on 11th December, 2002, more than six years have lapsed and the proceedings of an eviction petition filed by the petitioner himself u/s 14(1)(b) of the Rent Control Act have remained stayed.

That briefly stated the facts of the case are that the petitioner filed eviction petition u/s 14(1)(b) of the Rent Control Act against the respondent namely M/s Escorts Limited alleging that it had unauthorisedly sub-let the premises namely Show Room No.11, 3 garages No.2, 7, & 8 situated in Atma Ram Mansion known as Scindia House, Connaught Circus, New Delhi. The factum of sub-letting was denied by the respondents in the

written statement. It was suggested in the written statement that respondents had surrendered two rooms some time in 1995-96 which were the subject matter of sub-letting and thereafter a fresh tenancy in favour of M/s Inter- continent (Tranvancore) Pvt. Ltd. Of which RW-3, Mrs. Dolly Nanda was the Director was continued as a tenant.

The parties adduce their evidence and Dolly Nanda appeared as a witness and denied the factum of the sub-letting. When the case was fixed for arguments, at that time the petitioner states that it came across some previous documents which were a part of the litigation between the petitioner and the respondents u/s 145 and 146 of the Cr.P.C. pertaining to the year 1991. These documents were sought to be produced by way of additional documents and sought to be put in cross-examination of RW-3 Mrs. Dolly Nanda. Since Mrs. Dolly Nanda statement had been completed, therefore the request of the petitioner was rejected which resulted in filing of the present petition u/s 227 of the Constitution of India.

2. I have heard learned counsel for the petitioner and gone through the records. I did not have the occasion to hear counsel for the respondents as none appeared on their behalf.

3. It is really very said that despite getting the matter admitted almost six years back it has remained back pending adjudication for a small issue and thus delaying the disposal of the main eviction petition. The documents which are sought to be proved by the petitioner are letter dated 4th December, 1991 purported to have been written by Mrs. Dolly Nanda to Atma Ram Properties

Pvt. Ltd., Flat No.9, 2nd Floor enclosing therewith a cheque of Rs.500/- being the rent for one room in the building in question. Document No.2 is a photo copy of the said cheque dated 3rd December, 1991, the document No.3 is letter dated 28th August, 1991 purported to have been written by Dalip Singh, A-104, Ashok Vihar-II, Delhi-52 to SHO, Connaught Place wherein he has stated that he has been authorized by Mrs. Dolly Nanda, RW-3 of M/s Intercontinent (Travancore) Pvt. Ltd. to renovate her office. Document No.4 is a certificate dated 23rd August, 1991 purported to have been issued by Mrs. Dolly Nanda, RW-3, of M/s Intercontinent (Travancore) Pvt. Ltd. Wherein Dalip Singh permitted to sit in the said office and document No.5 is a letter dated 3rd April, 1991 purported to have written by Mrs. Dolly Nanda to Atmaram Properties Pvt. Ltd. Regarding the payment of rent of one room amounting to Rs.3600/- for the period from 1.5.1998 to 30.4.1991. Be that as it may be, without going into the question of veracity and the genuineness of these documents in my considered view, the sweep of Order 18 Rule 17-17(a) is very wide. The law permits adducing of additional evidence at the appellate stage also, provided certain conditions with regard to the production of the said evidence is satisfied. Though the provisions of the CPC are not strictly applicable to the rent proceedings but broadly speaking the principles which are enunciated in the said provision would be equally applicable. The Court or the Tribunal as the case may be must take into consideration the entire evidence so as to arrive at the truth as is held by the Hon'ble Supreme Court in Sangram Singh vs. Election Tribunal Kotah and another AIR 1955 SC 425, similarly in Union of

India vs. Jyoti Chit Fund AIR 1976 SC 1163, it has been held by the Supreme Court that procedural law is neither petrified nor purblind but has a simple mission namely promotion of justice. Keeping in view this broad principle in mind, I feel that the Learned ARC ought to have allowed the adducing of additional documents by the petitioner for the purpose of cross-examination of RW-3 which would have gone into the root of the matter.

4. For these reasons, I allow the application of the petitioner and permit him to adduce the aforesaid documents for the purpose of cross-examination of RW-3, Mrs. Dolly Nanda with a direction that one opportunity shall be given to the petitioner by summoning RW-3 for the purpose of further cross-examination with regard to these five documents which have been permitted to the petitioner to be produced in the instant case. Needless to say that this will be obviously followed by one opportunity to be given to the respondents to refute the said evidence, in case the respondent so desires and further this has to be subject to the petitioner giving a cost of Rs.20,000/- to the respondents and also bearing the expenses which the witness may have to incur for the appearance in the Court. The observations made herein will not be treated as a precedent. With these observations, the petition is allowed, parties are left to bear their own costs. The stay granted on 18.1.2002 is vacated.

V.K. SHALI, J

May 30, 2008
nk