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GIRDHARI LAL & SONS

v.

BALBIR NATH MATHUR & ORS.

FEBRUARY 26, 1986

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[O. CHINNAPPA REDDY AND V. KHALID, JJ.]

DELHI RENT CONTROL ACT 1958:

Sections 17 & 18 - 'Sub-tenant' when entitled to protection against eviction - Consent of landlord to the sub-tenancy and notice of creation of sub-tenancy to be evidenced in writing-letter of sub-tenancy - Attested by landlord - Whether sufficient.

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INTERPRETATION OF STATUTES :

Statute - Interpretation of - Primary duty of court - Ascertain intention of legislature - Actual or imputed - Thereafter interpret statute so as to promote and advance its object and purpose by supplementing the written word if necessary.

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The respondent-landlord, Balbir Nath Mathur had let out the demised premises to a firm M/s. Om Prakash & Co., whose three partners were close relations of the respondent-landlord. The tenant-firm in turn leased out the premises to the appellant-firm. A letter executed by the tenant-firm and attested by the respondent land-lord was passed on to the appellant-firm had confirmed the lease and further undertook to pay to the appellant-firm as damages a sum calculated at the rate of Rs.2,500 per month for the unexpired period of the lease if the appellant-firm had to vacate the premises before the expiry of the lease period of two years. Simultaneously, the appellant-firm also executed a letter addressed to the respondent-landlord, in which, after referring to the lease of the premises in their favour, it was stated that they would pay a sum of Rs.8,400 per annum as donation to the trust of which respondent-landlord and others were trustees, if they stayed on in the premises after the expiry of the period of lease. By a letter dated June 10, 1975 the tenant-firm had

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A demanded payment of arrears of rent from appellant-firm. This letter was signed by the respondent-landlord himself on behalf of the tenant-firm.

The respondent-landlord obtained an ex parte decree for eviction against the tenant-firm and one of its partners. In the execution proceedings, the appellant-firm, in whose occupation the premises were, filed an objection petition before the Rent Controller under s.25 of the Delhi Rent Control Act, 1958. The objection petition was rejected by the Rent Controller and his order was confirmed by the Rent Control Tribunal as well as by the High Court.

C In appeal to this Court it was contended on behalf of the appellant-firm/sub-tenant : (1) that they were not sub-tenants but the direct tenants of respondent-landlord as he himself and negotiated the lease and inducted them into possession; (ii) that even if they were sub-tenants only, they were entitled to the protection of sections 17 and 18 of the Act; (iii) that the decree obtained by the respondent-landlord was a collusive decree and that a fraud had been played upon the Court to get rid of the appellant-firm and (iv) that there was consent in writing by the landlord to the sub-tenancy, as well as notice in writing to the landlord of the sub-tenancy within the meaning of sections 17 and 18 of the Act and, therefore, they were entitled to be protected against eviction.

Allowing the appeal,

F **HELD** : (By the Court)

The appellant/sub-tenant is clearly entitled to the protection of s. 17 and 18 of the Delhi Rent Control Act, 1958 and he cannot, therefore, be evicted in execution of the decree obtained by respondent-landlord against tenant-respondent. [396 F]

(Per Chinnappa Reddy, J.)

1. The Delhi Rent Control Act, 1958 is primarily devised to prevent unreasonable eviction of the tenants and sub-tenants from demised premises and unreasonable enhancement of

rent. Showing an awareness of the problems of sub-tenants, the Legislature enacted ss. 17 and 18 for their protection. [395 C-D; E-F]

2. The Legislature while offering protection to a sub-tenant who has been inducted into possession by a landlord has limited the protection to the sub-tenant who can establish the consent of the landlord by documentary evidence to which the landlord and the tenant or the sub-tenant are parties. So it is provided that the previous consent of the landlord has to be in writing and that a notice in the prescribed manner has to be given to the landlord by the tenant or the sub-tenant. The essence of the requirement, therefore, is that the consent of the landlord to the sub-tenancy and the notice of the creation of the sub-tenancy have to be evidenced by writing. The writing is to be such as to indicate clearly the consent of the landlord to the creation of a sub-tenancy and his knowledge of the particular sub-tenancy after its creation. The writing relating to the consent and the writing relating to the knowledge (notice) may be by different documents or they may telescope into the same document. [395 H; 396 A-C]

3. There is no magical form in which the consent is to be given nor any charmed form in which the notice is to be sent. The essence of the matter is that the consent to the sub-tenancy and the notice of the sub-tenany in respect of the premises must be evidenced by written consent of the landlord and the tenant or the sub-tenant. [396 D-E]

Where, as in the instant case, the agreement or the letter of the sub-tenancy in respect of the demised premises is attested by the landlord himself, there can be no question that the landlord has given his previous consent and that he has notice in writing of the sub-tenancy in respect of the particular premises. The requirements of sections 17 and 18 of the Act both as regards to his consent and the notice to him are satisfied. [396 C-D]

4. The primary and foremost task of a court in interpreting a statute is to ascertain the intention of the legislature, actual or imputed. Having ascertained the intention, the court must then strive to so interpret the statute as to promote and advance the object and purpose of the enactment. For this purpose, where necessary the court may even depart

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from the rule that plain words should be interpreted according to their plain meaning. There need be no meek and mute submission to the plainness of the language. To avoid patent injustice, anamoly or absurdity or to avoid invalidation of a law, the court would be well justified in departing from the B so-called golden rule of construction so as to give effect to the object and purpose of the enactment by supplementing, the written word, if necessary. [391 B-D]

Hawkins v. Gathercole, 43, English Reports 1129, **Comet Radio Vision Services v. Farnell Trand Bord**, [1971] III All C E.R. 230; **Seaford Court Estates Limited v. Ashor**, [1949] 2 All E.R. 155; **Ruggy Joint Water Board v. Fottit**, [1972] 1 A.E.R. 1057; **K.P. Verghese v. I.T.O.**, [1981] 4 S.C.C. 173; **State Bank of Travancore v. Mohd. M. Khan** [1981] S.C.C. 82; **Som Prakash Rathi v. Union of India**, [1981] S.C.C. I 449, **Ravula Subba Rao v. C.I.T.**, [1956] S.C.R. 577; **Govindlal v. Market Committee**, D [1976] 1 S.C.R. 482 and **Babaji Kondaji v. Nasik Merchants Coop. Bank**, [1984] 2 S.C.C. 50 relied upon.

(Per Khalid, J.)

In normal cases a sub-tenant under the Delhi Rent E Control Act 1958 can get relief under the provisions of the Act only if he satisfies the twin conditions in s. 17 viz. there must be the previous consent to writing by the landlord of the creation of the sub-tenancy, and a notice in the prescribe manner by the sub-tenant of the creation of the sub-tenancy to the landlord within one month of the date of F such creation. It is only when these two conditions are satisfied that the consequences mentioned in s. 18 will follow. [398 B-C]

Normally, s. 17 should be strictly complied with, for the sub-tenant to get the benefit under s.18. [398 F]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2153 of 1980.

From the Judgment and Order dated 22.9.1980 of the Delhi High Court in S.A. No. 287 of 1980.

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M.K. Mukhi, Girish Chandra and Mrs. Sarla Chandra for the Appellants.

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F.S. Nariman, R.N. Karanjawala, Mrs. Manik Karanajawala, Ejaz Maqbool, M.L. Lahoty, S.P. Singh, K.P. Gupta and Miss Helevs Marc for the Respondents.

The following Judgments of the Court were delivered

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CHINNAPPA REDDY, J. Balbir Nath Mathur obtained an ex-parte decree for eviction against M/s. Om Prakash & Company and Kusum Rani, a partner of M/s. Om Prakash & Company in respect of the ground floor of premises of No.90, Sunder Nagar, New Delhi. Three of the partners of M/s. Om Prakash & Company, it must be mentioned at the outset, are the sister-in-law and the two minor daughters of Balbir Nath Mathur himself. When Balbir Nath Mathur sought to execute the decree for eviction, M/s. Girdhari Lal & Sons who are in occupation of the premises filed an objection petition before Rent Controller, purporting to do so under s.25 of the Delhi Rent Control Act, 1958. The objection petition was rejected by the Rent Controller. The order of the Rent Controller was confirmed an appeal, by the Rent Control Tribunal and, by the High Court on further revision. M/s. Girdhari Lal & Sons have filed this appeal with the special leave of this court.

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The Rent Controller and the Rent Control Tribunal concurrently found that Balbir Nath Mathur was the owner of the premises, that Om Prakash & Company was the tenant and that Girdhari Lal & Sons were the sub-tenants under Om Prakash & Company. The case of the appellants was that it was Balbir Nath Mathur that negotiated the lease and inducted them into possession and that they were not sub-tenants but the direct tenants of Balbir Nath Mathur. Even if they were sub-tenants only, they claimed that they were entitled to the protection of sections 17 and 18 of the Delhi Rent Control Act. They alleged that the decree obtained by Balbir Nath Mathur was a collusive decree and that a fraud had been played upon the court to get rid of the appellant, M/s. Girdhari Lal & Sons. In view of the concurrent findings that Om Prakash & Company was the tenant and M/s. Girdhari Lal & Sons were the sub-tenants, we accept that finding and proceed to consider the question whether the appellants are entitled to the protection of sections 17 and 18 of the Delhi Rent Control Act.

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A At the time when the premises was leased by Om Prakash & Company to M/s. Girdhari Lal & Sons a letter executed by Om Prakash & Company and attested by Balbir Nath Mathur was passed on to M/s. Girdhari Lal & Sons. By this letter, Om Prakash & Company confirmed the lease and further undertook to pay to the appellant as damages a sum calculated at the rate of Rs.2500 per month for the unexpired period of the lease if B the appellant had to vacate the premises before the expiry of the lease period of two years Simultaneously M/s. Girdhari Lal & Sons executed a letter addressed to Balbir Nath Mathur in which they stated, after referring to the lease of the house in their favour by Om Prakash & Company, that they would pay a sum of Rs.8400 per annum as donation to the Shree Visheshwar C Nath Memorial Public Charitable Trust, a trust of which Balbir Nath Mathur and others were trustees, if they stayed in the premises after the expiry of the period of lease. Another important document to which we may make a reference is a letter dated June 10, 1975 by which Om Prakash & Company demanded payment of arrears of rent from M/s. Girdhari Lal & D Sons. This letter was signed by Balbir Nath Mathur himself on behalf of Om Prakash Company. The contention of the appellants is that there was consent in writing by the landlord to the sub-tenancy, as well as notice and writing to the landlord of the sub-tenancy within the meaning of sections 17 and 18 of the Delhi Rent Control Act and therefore the sub-tenants M/s. E Girdhari Lal & Sons were entitled to be protected against eviction.

In order to appreciate the contention of the appellant it is necessary to set out sections 17(1) and 18(1) of the Delhi Rent Control Act, 1958 :-

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> "17(1) Where, after the commencement of this Act, any premises are sub-let either in whole or in part by the tenant with the previous consent in writing of the landlord, the tenant or the sub-tenant to whom the premises are sub-let may, in the prescribed manner, gave notice to the landlord of the creation of the sub-tenancy within one month of the date of such sub-letting and notify the termination of such sub-tenancy within one month of such termination.
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(3).....

18(1) Where an order for eviction in respect of any premises is made under section 14 against a tenant but not against a sub-tenant referred to in section 17 and a notice of the sub-tenancy has been given to the landlord, the sub-tenant shall, with effect from the date of the order, be deemed to become a tenant holding directly under the landlord in respect of the premises in his occupation on the same terms and conditions on which the tenant would have held from the landlord, if the tenancy had continued.

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(2)....."

Rule 21 of the Delhi Rent Control Rules, 1959 provides that a notice of the creation or termination of sub-tenancy required under s.17 shall be in Form "E". Rule 22 provides that unless otherwise provided by the Act, any notice or intimation required or authorised by the Act to be served on any person shall be served (a) by delivering it to the person; or (b) by forwarding it to the person by registered post with acknowledgement due. Form "E" provides for a statement of full particulars of the demised premises, such as the street, municipal ward and house number, names of the tenant and the sub-tenant, details of the portion sublet, rent payable by the sub-tenant, date of creation of the sub-tenancy, etc.

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It may be worthwhile to restate and explain at this state certain well known principles of Interpretation of Statutes: Words are but mere vehicles of thought. They are meant to express or convey one's thoughts. Generally, a person's words and thoughts are coincidental. No problem arises then, but, not in frequently, then are not. It is common experience with most men, that occasionally there are no adequate words to express some of their thoughts. Words which very nearly express the thoughts may be found but not words which will express precisely. There is then a great fumbling for words. Long winded explanations and, in conversation, even gestures are resorted to. Ambiguous words and words which unwittingly convey more than one meaning are used. Where different interpretations are likely to be put on words and a question

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arises what an individual meant when he used certain words, he may be asked to explain himself and he may do so and say that he meant one thing and not the other. But if it is the legislature that has expressed itself by making the laws and difficulties arise in interpreting what the legislature has said, a legislature can not be asked to sit to resolve those
B difficulties. The legislatures, unlike on individuals, cannot come forward to explain themselves as often as difficulties of interpretation arise. So the task of interpreting the laws by finding out what the legislature meant is allotted to the courts. Now, if one person puts into words the thoughts of another (as the draftsman puts into words the thoughts of the
C legislature) and a third person (the court) is to find out what they meant, more difficulties are bound to crop up. The draftsman may not have caught the spirit of the legislation at all; the words used by him may not adequately convey what is meant to be conveyed; the words may be ambiguous; they may be words capable of being differently understood by different
D persons. How are the courts to set about the task of resolving difficulties of interpretation of the laws? The foremost task of a court, as we conceive it, in the Interpretation of Statutes, is to find out the intention of the legislature. Of course, where words are clear and unambiguous no question of construction may arise. Such words ordinarily speak for
E themselves. Since the words must have spoken as clearly to legislators as to judges, it may be safely presumed that the legislature intended what the words plainly say. This is the real basis of the so called golden rule of construction that where the words of statutes are plain and unambiguous effect must be given to them. A court should give effect to plain
F words, not because there is any charm or magic in the plainness of such words but because plain words may be expected to convey plainly the intention of the Legislature to other as well as judges. Intention of the legislature and not the words is paramount. Even where the words of statutes appear to be prima facie clear and unambiguous it may some times be possi-
G ble that the plain meaning of the words does not convey and may even defeat the intention of the legislature; in such cases there is no reason why the true intention of the legislature, if it can be determined, clearly by other means, should not be given effect. Words are meant to serve and not to govern and we are not to add the tyranny of words to the
H other tyrannies of the world.

Parliamentary intention may be gathered from several sources. First, of course, it must be gathered from the statute itself, next from the preamble to the statute, next from the Statement of Objects and Reasons, thereafter from Parliamentary debates, reports of Committees and Commissions which preceded the legislation and finally from all legitimate and admissible sources from where there may be light. Regard must be had to legislative history too.

Once Parliamentary intention is ascertained and the object and purpose of the legislation is known, it then becomes the duty of the court to give the statute a purposeful or a functional interpretation. this is what is meant when, for example, it is said that measures aimed at social amelioration should receive liberal or beneficient construction. Again, the words of a statute may not be designed to meet the several uncontemplated forensic situations that may arise. The draftsman may have designed his words to meet what Lord Simon of Glaisdale calls the 'primary situation'. It will then become necessary for the court to impute an intention to Parliament in regard to 'secondary situations'. Such 'secondary intention' may be imputed in relation to a secondary situation so as to best serve the same purpose as the primary statutory intention does in relation to a primary situation.

So we see that the primary and foremost task of a court in interpreting a statute is to ascertain the intention of the legislature, actual or imputed. Having ascetained the intention, the court must then strive to so interpret the statute as to promote or advance the object and purpose of the enactment. For this purpose, where necessary the court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no neek and mute submission to the plainness of the language. To avoid patent injustice, anamoly or absurdity or to avoid invalidation of a law, the court would be well justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment by supplementing, the written word if necessary.

In an old English case, **Hawkins v. Gathercole,** 43 English Reports 1129, Turner, CJ., referred to two earlier cases reported by Plowden. In the first case of **Stradling v. Morgan,**

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the Judges were reported to have said :

> "That the Judges of the law in all times past have so far pursued the intent of the makers of the statutes, that they have expounded Acts which were general in words to be but particular, where the
B intent was particular.....
.....From which cases it apears that the sages of the law heretofore have construed statutes quite contrary to the letter in some appearance; and those statutes which comprehend all things in the letter, they have expounded to extend but to some-
C things; and those which generally prohibit all people from doing such an act, they have interpreted to permit some people to do it; and those which include every person in the letter, they have adjudged to reach to some persons only; which expositions have always been founded upon the
D intent of the Legislature, which they have collected, sometimes by considering the cause and necessity of making the Act, sometimes by comparing one part of the Act with another, and sometimes by foreign circumstances, so that they have ever been guided by the intent of the Legislature, which they
E have always taken according to the necessity of the matter, and according to that which is consonant to reason and good discretion.

Turner, CJ himself added,

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> "The passages to which I have referred have selected only as containing the best summary with which I acquainted of the law upon this subject. In determining the question before us, we have therefore, to consider not merely the words of this Act of Parliament, but the intent of the Legis-
G lature, to be collected from the cause and necessity of the Act being made, from a comparison of its several parts, and from foreign (meaning extraneous) circumstances so far as they can justly be considered to throw light upon the subject."

H In a forthright pronouncement Goulding, J. said in **Comet Radio Vision Services v. Farnell Trand Borg,** [1971] 3

All E.R. 230.

> "...The language of parliament though not to be extended beyond its fair construction, is not to be interpreted in so slavishly literal a way as to stultify the manifest purpose of the legislature."

In **Seaford Court Estates Limited v. Ashor** [1949] 2 All E.R. 155 Lord Denning, who referred to Plowden's Reports already mentioned by us, said :

> "Whenever a statute comes up for consideration, it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity.....A Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a construction of the social conditions which gave rise to it and of the mischief which it was passed to remedy and **then he must supplement the written word** so as to give force and life to the intention of the legislature. Put into homely metaphor, it is this: A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the contexture of it they would have straightened it out? **He must then do what they would have done.** A judge should not alter the material of which the Act is woven, but he can and should iron out the creases."

In **Rughy Joint Water Board v. Foottit** [1972] 1 A.E.R. 1057, Lord Simon of Glaisdale said :

> "The task of the courts is to ascertain what was the intention of Parliament, actual or to be imputed, in relation to the facts as found by the court....But on scrutiny of a statutory provision, it will generally appear that a given situation was within the direct contemplation of the draftsman as

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> the situation calling for statutory regulation: this may be called the primary situation. As to this, Parliament will certainly have manifested an intention -'The Primary Statutory Intention'. But situations other than the primary situation may present themselves for judicial decisions - secondary situations. As regards these secondary situations, it may seem likely in some cases that the draftsman had them in contemplation; in others not. Where it seems likely that a secondary situation was not within the draftsman's contemplation, it will be necessary for the court to impute an intention to Parliament in the way I have described, that is, to determine what would have been this statutory intention if the secondary situation had been within Parliamentary contemplation (a secondary intention)."

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D It may not be out of place to refer here to what Harold Laski said in his Report of the Committee on Ministers' powers:

> "The present methods of statutory interpretation make the task of considering the relationship of statutes, especially in the realm of great social experiments, to the social welfare they are intended to promote one in which the end involved may become unduly narrowed, either by reason of the unconscious assumptions of the Judge or because he is observing the principles of interpretation devised to suit interests we are no longer concerned to protect in the same degree as formerly...The method of interpretation should be less analytical and more functional in character; it should seek to discover the effect of the legislative precept in action so as to give full weight to the social value it is intended to secure."

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In 1981, the Australian Parliament added a new section 15AA(1) to the Acts Interpretation Act, 1901, requiring that in statutory interpretation "A construction that would promote the purpose or object" of an Act (even if not expressed in the Act), be preferred to one that would not promote that purpose

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or object. Julius Stone in his 'Precedent And Law - Dynamics of Common Law Growth' also refers to this provision.

Our own court has generally taken the view that ascertainment of legislative intent is a basic rule of statutory construction and that a rule of construction should B be preferred which advances the purpose and object of a legislation and that though a construction, according to plain language, should ordinarily be adopted, such a construction should not be adopted where it leads to anomalies, injustices or absurdities, vide **K.P. Varghese v. I.T.O.** [1981] 4 S.C.C. 173, **State Bank of Travancore v. Mohd. M.Khan** [1981] 4 S.C.C. 82, **Som Prakash Rathi v. Union of India** [1981] 1 S.C.C. 449, C **Ravula Subba Rao v. C.I.T.** [1956] S.C.R. 577, **Govindlal v. Market Committee** [1976] 1 S.C.R. 482 & **Babaji Kondaji v. Nasik Merchants Coop. Bank** [1984] 2 S.C.C. 50.

Bearing these broad principles in mind if we now turn to the Delhi Rent Control Act, it is at once apparent that the D Act is primarily devised to prevent unreasonable eviction of the tenants and sub-tenants from demised premises and unreasonable enhancement of rent. In particular, the purpose of sections 17 and 18 is clearly to protect the sub-tenants from eviction where a landlord obtains a decree for eviction against the principal tenant. In an action for eviction by a E landlord against the principal tenant, the sub-tenant has no defence of his own under the ordinary law, even if he has been inducted into possession with the consent of the landlord. He has to go with the tenant. He can claim no right to sit in the premises apart and distinct from the right of the tenant. Showing an awarencess of the problems of sub-tenants, the F legislature enacted sections 17 and 18 for their protection. The protection was afforded to sub-tenants who had been inducted into possession with the consent of the landlord. While so extending a protecting hand to the sub-tenants who had genuinely obtained the consent of the landlord alone should be entitled to that protection. The legislature wanted G to prevent persons who had somehow managed to get into possession, having been inducted into such possession by the tenant or otherwise from putting forward baseless claims that they were inducted into possession with the consent of the landlord. So the legislature while offering protection to a sub-tenant who has been inducted into possession by a landlord H

A has limited the protection to the sub-tenant who can establish the consent of the landlord by documentary evidence to which the landlord and the tenant or sub-tenant who can establish the consent of the landlord by doccmentary evidence to which the landlord and the tenant or sub-tenant are parties. So it is provided that the previous consent of the landlord has to be in writing and that a notice in the prescribed manner has B to be given to the landlord by the tenant or the sub-tenant. The essence of the requirement, therefore, is that the consent of the landlord to the sub-tenancy and the notice of the creation of the sub-tenancy have to be evidenced by writing. The writing is to be such as to indicate clearly the consent of the landlord to the creation of a sub-tenancy and his C knowledge of the particular sub-tenancy after its creation. The writing relating to the consent and the writing relation to the knowledge (notice) may be by different documents or they may telescope into the same document. Where, as in the present case, the agreement or the letter of the sub-tenancy in respect of the demised premises is attested by the landlord D himself, there can be no question that the landlord has given his previous consent and that he has notice in writing of the sub-tenancy in respect of the particular premises. The requirements of secs. 17 and 18 both as regards to his consent and the notice to him are satisfied. There is no magical form in which the consent is to be given nor any charmed form in E which the notice is to be sent. As we said, the essence of the matter is that the consent to the sub-tenancy and the notice of the sub-tenancy in respect of the premises must be evidenced by writing signed by the landlord and the tenant or the sub-tenant. In this view of the matter, the appellant in the present case is clearly entitled to the protection of secs. 17 F and 18 of the Delhi Rent Control Act and he cannot, therefore, be evicted in execution of the decree obtained by Balbir Nath Mathur against Om Prakash & Company. We do not consider it necessary to embark into a discussion of the two cases cited before us **Jagan Nath v. Abdul Aziz** A.I.R. 1973 Delhi p.9 and **Murari Lal v. Abdul Ghafar** I.L.R. 1974 1 Delhi 45.

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During the pendency of the appeal in this court, an order was made to the effect that from January 1, 1985 onwards, the appellant should deposit a sum of Rs.3,600 every month out of which the respondent would be entitled to draw out a sum of Rs.1,800 only. On behalf of the appellants, it was also

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undertaken that the suit filed by them against the respondents for fixation of fair rent would be withdrawn by them. We are informed that the suit has not yet been withdrawn. We declare that the suit filed by the appellant for the fixation of fair rent shall stand dismissed as withdrawn. We further direct that with effect from January 1, 1985 onwards, the rent for the premises shall be Rs.3,600 per month and it will be so paid and adjusted. The amount now in deposit may be drawn out by the respondents. The appeal is allowed in the manner indicated above. There will be no order as to costs.

KHALID, J. I have gone through the Judgment prepared by my learned brother. I agree with the conclusion that the appeal has to be allowed.

We have before us two parties, both affluent. No tears need be shed either for the one or the other. The tenant before us, or to be precise the sub-tenant, is a firm which does not deserve any sympathy from us and that for an excellant reason. They had given an undertaking before this Court that they would withdraw the suit filed by them for fixation of fair rent. This undertaking they did not respect till now, obviously with the oblique motive of compelling the landlord to get the rent reduced and at the same time walk away with an order from this Court avoiding eviction. Left to myself, I would have declined relief to the appellants or at least directed them to pay a sum of Rs.5,000 every month as rent. However, in the peculiar facts and circumstances of this case, where the conduct of the landlord is anything but wholesome, I agree with my learned brother in the order passed by him allowing the appeal. But, I would like to make my position clear regarding the scope and purpose of section 17 and 18 of the Act.

The normal rule is that all rights created by a tenant disappear along with the disappearance of his tenancy unless there are special satisfactory safeguards for the sub-tenants. A sub-tenant has no independent existence **de-hors** the tenant who inducted him into possession. In the Act before us a sub-tenant is given a special right, not available to him under the general law, but that right is circumscribed by specific conditions laid down in section 17. We have chosen to rescue the appellants before us only because of the hide and seek

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conduct displayed by the so-called tenant and the so-called land-lord in this case. The facts speak for themselves. Even a man who runs can see that the so-called tenant in this case is the alter ego of the so-called land-lord. There is a total identification between the two. It is their attempt to over-reach the appellants by dubious methods that has, in fact, B imperilled their case, and it is for this reason that the appellants get relief from us, even though strict adherence to the conditions imposed under section 17 is absent.

In normal case a sub-tenant under the Act can get relief under the provisions of the Act only if he satisfies the twin C conditions laid down in section 17, viz., that there must be the previous consent in writing by the land-lord, of the creation of the sub-tenancy and a notice in the prescribed manner by the sub-tenant of the creation of the sub-tenancy to the land-lord within one month of the date of such creation. It is only when these two conditions are satisfied that the D consequences mentioned in section 18(1) will follow. I should not, therefore, be understood to hold the view that, as a general rule, in all cases where the sub-tenant some-how secures the signature of the land-lord in some communication relating to tenancy, a consent in writing satisfying the requirements of the section is to be assumed. In this case, E Messrs Om Prakash & Company and Balbir Nath Mathur have been hand in gloves with one another to defeat the appellants. It is the attestation by Balbir Nath Mathur on behalf of Messrs Om Prakash & Company in the letter dated June 10, 1975, that has found favour with us to assume consent in writing in the peculiar facts of the case. This, according to me, is an F exceptional case with facts peculiar to its own. Normally, section 17 should be strictly complied with, for the sub-tenant to get the benefit under section 18.

A.P.J. Appeal allowed.