

A SARDAR ESTATES
V.

ATMA RAM PROPERTIES (P) LTD.
Civil Appeal No. 6954 of 2003

APRIL 30, 2009

B (MARKANDEY KATJU AND H.L. DATTU, JJ)

Administration of Justice:

C Abuse of process of court/vexatious litigation – Tenant having suffered a decree of eviction consistently right from Rent Controller upto Supreme Court and filing objections in execution case, again pursued the matter upto Supreme Court – HELD: It is evident that frivolous objections have been filed in execution case which is an abuse of the process of court and a flagrant violation of eviction decree against the tenant –

D This is a practice which has become widespread, and which the Court cannot approve of, otherwise no judgment will ever attain finality – Appeal dismissed – Cost of Rs.10,000/- imposed on tenant which shall be paid to landlord- Rent control and Eviction.

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6954
of 2003

From the Judgement and Order dated 10.09.2002 of the High Court of Delhi at New Delhi in S.A.O. No. 26 of 2002

F Ranjit Kumar, Rajiv K. Garg, Annam D. N. Rao, with him,
for the Appellant(s).

Amit Sethi, Ajay Kr. Jha, Bina Madhavan, Ruchi Aggarwal, Shwetanik Sovlakwah, Parekh & Co., for the Respondent(s).

G The following order of the Court was delivered

This appeal furnishes a typical instance of a widespread malady which has infected the judicial system in the country, namely, the flagrant abuse of the process of the Court.

The respondent, which is the owner and landlord of A premises no.13/46, Scindia House, Connaught Circus, New Delhi filed an eviction petition against the appellant, who is the tenant, before the Rent Controller, Delhi in 1981. That petition was decreed on 12.5.1993 on the ground of subletting. The appellant filed an appeal before the Rent Control Tribunal which was dismissed on 22.9.1998. Thereafter he filed a second appeal which was dismissed by the Delhi High Court on 31.1.2000. Against that order he filed an SLP in this Court which was dismissed as withdrawn by order dated 8.12.2000. He then filed a Review Petition before the Delhi High Court which was dismissed on 9.2.2001. Against that order the appellant filed another SLP in this Court which was dismissed on 9.4.2001. By that order he was directed to vacate the premises and handed over physical possession to the landlord on or before 31.10.2001 subject to the usual undertaking to be filed within four weeks. However, the appellant did not file the undertaking.

In execution proceedings the appellant filed an objection on 16.3.2001 which was rejected by the Executing Court on 14.9.2001. Against the order dated 14.9.2001 the appellant filed an appeal which was dismissed as withdrawn on 1.11.2001. He filed a fresh objection on 8.11.2001 before the Executing Court which was rejected on 5.7.2002. Against that order he filed a First Appeal before the Rent Control Tribunal which was dismissed on 20.7.2002. Against the order of the Rent Control Tribunal he filed a Second Appeal before the Delhi High Court which was dismissed on 10.9.2002 by the impugned judgment. Thereafter he filed the present appeal before us.

It was submitted before us by the learned counsel for the appellant that the eviction decree was in respect of the second floor of the property in question, and possession of the second floor had been handed over to the landlord in pursuance of the eviction decree, but the third floor was an independent premises for which no order of eviction had been passed.

The High Court has dealt with this aspect and has observed

A that some unauthorized construction had been made by the appellant on the open area above the second floor of premises no.13/46, Scindia House, New Delhi and this unauthorized construction cannot be said to be an independent flat.

B Before the Rent Control Tribunal it had been submitted by the appellant that the premises which is still in his possession is flat no.14A which is not a part of premises no.13/46, Scindia House, New Delhi. However, this plea had been negatived by the order of the Rent Control Tribunal dated 20.7.2002 after a detailed discussion. It was observed in the said order that flat no.14A is a part of the tenanted premises and not a separate accommodation. The High Court in the impugned judgment has observed that this is a question of fact and cannot be gone into in Second Appeal. We agree with this view taken by the High Court.

D It is evident that frivolous objections have been filed in the execution case which is an abuse of the process of the Court and a flagrant violation of the eviction decree against the appellant against which Appeals had been rejected and even SLP in this Court was dismissed.

E It is evident that after the first round of litigation was over the tenant started a second round of litigation on frivolous grounds which was a flagrant abuse of the Court. This is a practice which has become widespread, and which the Court F cannot approve off, otherwise no judgment will ever attain finality.

G Hence, we dismiss this appeal and impose a cost of Rs.10,000/- (Rupees Ten Thousand only) on the appellant which shall be paid to the respondent within two months from today. The appellant shall also hand over the premises in question, which is in his possession, to the landlord within three months from today failing which he will be evicted by police force.

R.P.

Appeal dismissed.