

Kulwant Singh And Ors. vs Smt. Amar Kaur And Ors. on 14 January, 1982

Equivalent citations: AIR1982SC1172, (1982)3SCC319, AIR 1982 SUPREME COURT 1172, (1982) 2 RENC R 99, (1982) 2 RENCJ 191, (1982) 22 DLT 215, 1982 (3) SCC 319, 1982 RAJLR 596

Bench: A. Varadarajan, D.A. Desai

JUDGMENT

1. We have heard Mr. R.K. Garg, learned Counsel for the appellants and Mr. G.L. Bawal, learned Counsel for respondents. On an earlier occasion it was contended that the appellants have not deposited arrears of rent and are defaulters in a huge amount. Before extending any consideration to the appellants we wanted to be satisfied that the appellants have paid or deposited rent in arrears. We are assured today by an affidavit of Tej Singh S/o Shri Damodar Singh that the appellants have deposited balance arrears of rent till today in the court of Shri D.S. Sidhu, Additional Kent Controller, Delhi. A photostat treasury challan is annexed to this affidavit which shows that the appellants have deposited Rs. 8,400/-. We requested Mr. Rawal learned Counsel for the respondents to check up this fact and after hearing him we have proceeded on the assumption that according to the affidavit all the arrears have been cleared out by making necessary deposit, but this deposit is accepted subject to the contentions in a cognate matter between the same parties. Any observation herein made is to have no impact as the dispute in the cognate matter and the parties will be at liberty to get that question adjudicated on proper evidence before the court before which the proceedings are pending unhampered by anything stated in this order.

2. This petition out of which the present appeal arises, is confined to the request of the respondents-landlord seeking eviction on the ground that they need the premises reasonably and bona fide for personal use and occupation. Inter alia the appellants-tenants sought leave to defend the action on the plea that the suit premises were let out both for residential and commercial purposes and therefore landlords would not be entitled to recover possession on the ground of personal requirement in view of the provisions of Delhi Rent Control Act. The Kent Controller declined to grant leave on a prima facie finding culled out from affidavits that the dominant purpose of Letting was residential. High Court dismissed revision petition in limine by a brief speaking order which hardly touches the core problem raised in the lis between the parties. We are of the opinion that looking to rival contentions it was a fit case where leave to defend ought to have been granted. We accordingly allow this appeal, set aside the order of the Rent Controller and High Court and grant leave to defend to the tenant. The parties are directed to appear before Shri V.B. Gupta, 5th Addl. Rent Controller, Delhi on 25th Jan. 1982. The Rent Controller will decide whether the requirement of landlord is bona fide and whether tenant proves that the purpose of letting was both residential and commercial and therefore the landlords would not be entitled to maintain an action on the ground of personal requirement after giving an opportunity to the defendants tenants to file their written statement. We allow the appeal in terms indicated above with no order as to costs. In

view of the fact that landlord seeks possession on the ground of personal requirements and further leave to defend is being granted at this stage, it is just and proper that the matter should be disposed of as expeditiously as possible and not later than three months from to day. No order as to costs.