

# Sanjay Saxena vs Vikram Vasudeva on 30 April, 2020

**Author: Rekha Palli**

**Bench: Rekha Palli**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 197/2020

SANJAY SAXENA

..... Appellant

Through:

Mr.Charanjeet Singh, Adv. with  
appellant in person.

versus

VIKRAM VASUDEVA

..... Respondent

Through:

Mr.Apoorv Agarwal, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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30.04.2020

CM APPL. No.10520/2020

1. Exemption allowed, subject to all just exceptions. The application stands disposed of.

RFA 197/2020 & CM APPL. Nos.10519/2020 (for stay), 10521/2020 (for condonation of 43 days delay in filing the appeal)

2. The present appeal has been taken up for hearing through video conferencing.

3. This regular first appeal filed under Section 96 of the Code of Civil Procedure, 1908 assails the judgment and decree dated 17.12.2019 passed by the learned Additional District Judge, Patiala House Courts, Delhi decreeing the respondent's suit for possession and arrears of rent; the matter is now listed before the learned trial Court for determination of mesne profits.

4. The facts in brief are that on 05.09.2018, the respondent agreed to lease out the suit premises comprising of the built up front side portion of Bungalow No. A-1/12, Shanti Niketan, New Delhi to the appellant, at a monthly rent of Rs. 3 lakhs besides electricity and maintenance charges. When the appellant began defaulting in making rent payments w.e.f. March 2019, the respondent served him with legal notices dated 23.04.2019 and 24.07.2019 terminating his tenancy and requiring him to hand over vacant and peaceful possession of the suit premises to the respondent. In his reply dated 05.08.2019, the appellant admitted his default in paying rent for the suit premises and pleaded that the same was on account of the huge losses he had suffered in his gold and diamond jewellery business as also the heavy expenditure incurred by him while contesting the Lok Sabha

elections on 29.04.2019 from the constituency of Rampur, Uttar Pradesh. He, therefore, prayed for time to clear the amounts due to the respondent. The respondent did not accede to this request and filed the suit for possession and mesne profits before the learned trial Court on the ground that the appellant was in default of rent w.e.f. March 2019. Upon issuance of summons, the appellant appeared before the trial Court through its counsel on 11.10.2019 and stated his willingness to pay arrears of rent of Rs. 30 lakh in three monthly instalments of Rs. 10 lakh each. It however transpires that though the appellant handed the respondent a cheque towards the first instalment of Rs. 10 lakh on 30.11.2019, the same was dishonoured. In its impugned judgment dated 17.12.2019, the learned trial Court has noted that the appellant, despite being granted repeated opportunities to pay the admitted arrears of rent, had neither paid it nor had it filed its written statement. It also noted that the cheque of Rs.10 lakh handed to the respondent by the appellant in court also came to be dishonoured. It is in these circumstances that the learned trial Court decreed the respondent's suit for possession and arrears of rent vide its impugned judgment.

5. Today, after some arguments learned counsel for the appellant, on instructions from the appellant who is present in Court, submits that since the appellant had admittedly defaulted in paying the rent, he does not press his appeal on merits but instead prays for time to vacate the suit premises. He submits that if the appellant is granted time till 15.06.2020, he will clear the entire up-to-date arrears of rent along with all pending maintenance and electricity charges on or before 15.06.2020, which payment will be effected either by way of RTGS or by way of a demand draft. He submits that in fact, in order to prove his bonafide, the appellant, despite being presently faced with financial hardship is willing pay a sum of Rs.10 lakhs to the respondent through the mode of RTGS/Demand Draft on or before 04.05.2020. He further submits that the appellant undertakes to vacate the suit premises on or before 31.10.2020 and to not create any third party rights therein. Moreover, he submits that till vacant and peaceful possession of the suit premises is handed over to the respondent on or before 31.10.2020, the appellant undertakes to continue paying the monthly rent for the same on or before the 7th day of every month, along with all electricity and maintenance charges. He further assures this Court that the appellant will not, in any manner, interfere with the respondent's peaceful possession and enjoyment of the property on which the suit premises is located, a separate portion whereof the respondent resides in.

6. Learned counsel for the respondent who appears on advance notice submits, on instructions, that this offer is acceptable to the respondent. He, however, prays that the appellant be directed to file an affidavit in regard of his undertakings and that the appeal be kept pending to ensure compliance. He also submits that although the appellant is in arrears of rent since March 2019, he has falsely pleaded having paid the respondent an amount of Rs. 30 lakh in cash towards rent, which is wholly erroneous. He, therefore, prays that the appellant be directed to deposit the entire arrears in favour of the respondent.

7. Learned counsel for the appellant, on instructions from the appellant, does not press the aforesaid plea of having purportedly made payments in cash to the respondent towards rent and assures the Court that the entire arrears of rent will be cleared in the manner as undertaken hereinabove.

8. Today the appellant is also present in person in these proceedings and submits that he remains cognisant of and is bound by all the undertakings he has given to this Court, including those recorded hereinabove. He specifically undertakes to file an affidavit in this regard before this Court within a period of three days as also to pay the respondent a sum of Rs.10 lakhs on or before 04.05.2020.

9. In view of the aforesaid stand taken by the parties, the present appeal is allowed by modifying the impugned judgment to the extent of granting time to the respondent to hand over vacant and peaceful possession of the suit premises to the appellant on or before 31.10.2020. The said modification would, however, be subject to the appellant paying a sum of Rs. 10 lakh to the respondent on or before 04.05.2020 and clearing the entire arrears of rent along with the applicable electricity and maintenance charges on or before 15.06.2020. The appellant is also directed to continue paying the monthly rent of Rs. 3 lakh, along with electricity and maintenance charges, to the respondent on or before the 7th day of every month. It is further directed that during this period, the appellant shall neither part with the possession of the suit premises nor create any third party rights thereon until he hands over vacant and peaceful possession of the suit premises to the respondent on or before 31.10.2020. An affidavit in this regard be filed by the appellant before this Court within a period of three days.

10. The appeal is disposed of along with the pending applications in the aforesaid terms.

11. List for compliance before the roster bench on 18.05.2020.

12. The order be uploaded on the website forthwith. A copy of the order also be forwarded to the learned counsel through email.

REKHA PALLI, J APRIL 30, 2020 gm